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CUSTOMS BULLETIN

TREASURY DECISIONS

UNDER CUSTOMS AND
OTHER LAWS

VOL. 17

JANUARY–DECEMBER 1983

DONALD T. REGAN
Secretary of the Treasury

WILLIAM VON RAAB
Commissioner of Customs

U.S. GOVERNMENT PRINTING OFFICE
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FOREWORD

This volume contains Treasury Decisions pertaining to the U.S. Customs Service originally printed in the weekly Customs Bulletin during the period January through December 1983.

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This volume contains Treasury Decisions [illegible] of the U.S. Customs Service originally printed in the weekly Customs Bulletin during the period January through December 1969.

U.S. CUSTOMS SERVICE

Treasury Decisions

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U.S. Customs Service

Treasury Decisions

(T.D. 83-1)

Bonds

Approval and discontinuance of Carrier's Bonds, Customs Form 3587

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: December 17, 1982.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
AAA Air Enterprises, Inc., a NB Corp., dba: AAA Commuter, AAA Airlines, P.O. Box 19130, Omaha, NB; air carrier; Old Republic Ins. Co.	Aug. 24, 1982	Oct. 19, 1982	Chicago, IL $25,000
American Auto Shippers, Inc., 450 Seventh Ave., NY, NY; motor carrier; Washington International Ins. Co. (PB 6/23/80) D 10/27/82 [1]	Oct. 26, 1982	Oct. 27, 1982	New York Seaport $100,000
Ray Bellew & Sons, Inc., 7810 Almeda-Genoa Rd., Houston, TX; motor carrier; Fidelity & Deposit Co.	Oct. 25, 1982	Oct. 28, 1982	Houston, TX $25,000
Blue Hen Lines, Inc., P.O. Box 280, Rt. #14, Milford, DE; motor carrier; The Ohio Casualty Ins. Co.	Apr. 30, 1982	Oct. 20, 1982	Philadelphia, PA $25,000
The Bulk Carriers Co.—See Norcros Industries Ltd.			
Chemical Express Co., 4645 N. Central Expressway, Dallas, TX; motor carrier; Reliance Ins. Co.	Feb. 27, 1980	Oct. 26, 1982	Dallas/Fort Worth, TX $100,000
Churchill Truck Lines, Inc., 5830 Gulf Freeway, Houston, TX; motor carrier; Reliance Ins. Co.	Sept. 6, 1982	Nov. 1, 1982	Houston, TX $50,000
A. Cole Trucking, 81 Mission St., Montclair, NJ; motor carrier; Washington International Ins. Co.	Nov. 10, 1981	Oct. 29, 1982	Newark, NJ $50,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Columbia Transport Corp., 8420 N.W. 30th Place, Miami, FL; motor carrier; St. Paul Fire & Marine Ins. Co.	June 14, 1982	June 14, 1982	Miami, FL $50,000
Gulf Coast Delivery, Inc., 8710 Shaw Ave., Pensacola, FL; motor carrier; U.S. Fidelity & Guaranty Co.	Sept. 22, 1982	Nov. 3, 1982	New Orleans, LA $25,000
Halberg Construction & Supply, dba: Kirscher Transport, Inc., 18 Ave. & 9 St., Virginia, MN; motor carrier; American Manufacturers Mutual Ins. Co.	Oct. 11, 1982	Nov. 9, 1982	Duluth, MN $25,000
James Hughes, Inc., 17 Battery Pl., New York, NY; water carrier; The Home Indemnity Co. D 10/27/82	Aug. 3, 1971	Aug. 18, 1971	New York Seaport $50,000
International Ex-Air Transport, Inc., 220 Guadalupe, Laredo, TX; motor carrier; Old Republic Ins. Co. (PB 7/28/82) D 10/29/82 [2]	Oct. 26, 1982	Oct. 29, 1982	Laredo, TX $25,000
International Expediting, Inc., 8400 McIntosh Rd., Fort Lauderdale, FL; motor carrier; Old Republic Ins. Co.	Oct. 15, 1982	Oct. 15, 1982	Miami, FL $25,000
Jock Trucking, Inc., 5825 Addison St., Philadelphia, PA; motor carrier; Peerless Ins. Co.	Oct. 5, 1982	Oct. 22, 1982	Philadelphia, PA $50,000
Kirscher Transport, Inc.—See Halberg Construction & Supply			
Kunkle Transfer & Storage Co., P.O. Box 3498, Phoenix, AZ; motor carrier; Aetna Casualty & Surety Co.	Aug. 29, 1982	Aug. 29, 1982	Nogales, AZ $25,000
Landmark Transport, Inc., 55 Commerce Ave., Pitman, NJ; motor carrier; Western Surety Co.	Oct. 4, 1982	Oct. 21, 1982	Philadelphia, PA $25,000
Leaseway Express—See Midwestern Distribution, Inc.			
Lumber Transport, Inc., P.O. Box 9813, Hanahan, SC; motor carrier; Ins. Co. of North America	Oct. 13, 1982	Oct. 21, 1982	Charleston, SC $25,000
Maersk Container Service Co., Inc., Berth 51, Port Newark, NJ; motor carrier; Fireman's Fund Ins. Co.	Oct. 27, 1982	Nov. 1, 1982	Newark, NJ $50,000
Midwestern Distribution, Inc., & Leaseway Express, P.O. Box 189, Fort Scott, KS; motor carrier; American Casualty Co. of Reading, PA (PB 11/24/80) D 11/1/82 [2]	Sept. 29, 1982	Nov. 1, 1982	St. Louis, MO $50,000
Motorways (Ontario) Ltd., 1151 Martingrove Rd., Rexdale, Ontario, Canada; motor carrier; The Continental Ins. Co. D 11/8/82	Sept. 10, 1976	Oct. 19, 1976	Buffalo, NY $25,000
National Cartage Co., 5005 Newport Dr., Rolling Meadows, IL; motor carrier; National Surety Corp.	Oct. 20, 1982	Nov. 4, 1982	Chicago, IL $25,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Jerry Newman & Son Ltd., R.R. #1, Cottam, Ontario, Canada; motor carrier; Old Republic Ins. Co.	Oct, 21, 1982	Oct. 21, 1982	Detroit, MI $50,000
Norcros Industries Ltd., dba: The Bulk Carriers Co., 151-City Centre Dr., Mississauga, Ontario, Canada; motor carrier; Hartford Fire Ins. Co.	Sept. 3, 1982	Oct. 25, 1982	Buffalo, NY $40,000
Plymouth Rock Transportation Corp., 1230 Massachusetts Ave., Boston, MA; motor carrier; The American Ins. Co. (PB 6/10/79) D 9/3/82 [4]	Aug. 30, 1982	Sept. 3, 1982	New York Seaport $100,000
Pyramid Van Lines, Inc., 479 S. Airport Blvd., South San Francisco, CA; motor carrier; General Ins. Co. of America D 10/26/82	Mar. 29, 1972	Apr. 10, 1972	Baltimore, MD $25,000
Querner Truck Lines, Inc., 1131-33 Austin St., San Antonio, TX; motor carrier; Western Surety Co. D 10/19/82	Apr. 19, 1978	Aug. 1, 1978	Laredo, TX $25,000
United Trans Delivery, Inc., 3800 S.W. 106th Ave., Miami, FL; motor carrier; American Motorists Ins. Co.	May 19, 1982	May 19, 1982	Miami, FL $50,000
VOT Transport Ltd., Dock Rd., Annacis Island, P.O. Box 450, New Westminster, B.C., Canada; Continental Ins. Co.	Oct. 26, 1982	Oct. 26, 1982	Seattle, WA $50,000

[1] Surety is Old Republic Ins. Co.

[2] Surety is National Surety Corp.

[3] Principal is Midwestern Distribution, Inc.; Surety is Western Surety Co.

[4] Surety is American Employers Ins. Co.

BON-3-03

George C. Steuart
(For Marilyn G. Morrison, Director,
Carriers, Drawback and Bonds Division).

(T.D. 83-2)

Customhouse Cartman's License—Suspension

Suspension of Customhouse Cartman's License, Number JFKIA-91 issued by District (Area) Director of Customs, New York to DRD Fast Freight, Inc.

Notice is hereby given that the Commissioner of Customs on December 16, 1982, pursuant to Section 565, Tariff Act of 1930, as amended (19 U.S.C. 1565), and Part 112 of the Customs Regulations, as amended (19 C.F.R. 112), it was decided to suspend for a period of ninety days the customhouse cartman's license of DRD FAST FREIGHT, INC., Number JFKIA-91 dated May 5, 1981.

This suspension becomes effective as of January 1, 1983.

William von Raab,
Commissioner of Customs.

[Published in the Federal Register, December 23, 1982 (47 FR 57388)]

(T.D. 83-3)

Customhouse Cartman's License—Revocation

Revocation of Customhouse Cartman's License Number 1816 issued by District (Area) Director of Customs, Newark to Port Terminal Refrigerated Transport, Inc.

Notice is hereby given that on December 16, 1982, pursuant to the provisions of section 565, Tariff Act of 1930, as amended, and section 112.30 of the Customs Regulations (19 C.F.R. 112.30), it was decided to revoke the Customhouse Cartman's License No. 1816 issued to Port Terminal Refrigerated Transport, Inc. of Port Newark, New Jersey. This revocation is effective as of January 6, 1983.

William von Raab,
Commissioner of Customs.

[Published in the Federal Register, December 23, 1982 (47 FR 57388)]

(T.D. 83-4)

General Notice

Vessels in Foreign and Domestic Trades; Fee Schedule for Vessel Services

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: The "Customs Procedural Reform and Simplification Act of 1978" repealed several statutes under which Customs charged and collected fees for specific services provided to vessels by Customs officers. That Act authorized the Secretary of the Treasury to establish a new schedule of fees to return to the Government the approximate costs of the service provided. This document sets forth the review schedule of fees to be charged and collected for 1983 for the specified services.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Jerry Laderberg, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Public Law 95-410, the "Customs Procedural Reform and Simplification Act of 1978," approved October 3, 1978 (the "Act"), repealed sections 2654, 4381, 4382, and 4383 of the Revised Statutes of the United States (19 U.S.C. 58; 46 U.S.C. 329, 330, and 333), the statutory authority under which Customs had been charging and collecting fees for specific services provided to vessels by Customs officers.

Because these "Navigation Fees," which are set forth in section 4.98(a), Customs Regulations (19 CFR 4.98(a)), did not cover the costs of providing the services, section 214 of the Act authorized the Secretary of the Treasury to establish a new schedule of fees to be charged and collected for furnishing these services. The fees are to be consistent with 31 U.S.C. 9701, which provides that the costs of specific services for private interests shall be reimbursed to the Government.

By Treasury Decision 80-25, published in the Federal Register on January 18, 1980 (45 FR 3570), Customs established a fee schedule to be used for 1980, and amended section 4.98(a), Customs Regulations, to provide that a revised fee schedule will be published in the Federal Register and Customs Bulletin in December of each year setting forth a revised schedule of navigation fees for the specified vessel services to be performed during the following year. The revised fee schedule is to reflect changes in the rate of compensation paid to the Customs officer performing the service. The fees are to be calculated in accordance with section 24.17(d), Customs Regulations (19 CFR 24.17(d)), and based upon the amount of time the average service requires of a Customs officer in the fifth step of GS-9.

Fee No. 6 of section 4.98(a)(1) was removed and reserved by T.D. 82-224, published in the Federal Register on November 29, 1982 (47 FR 53725).

Because of the recent Federal pay increase, it is necessary for Customs to revise the schedule of fees for 1983 to take into account this increased cost in accordance with section 4.98(a), Customs Regulations. The hourly rate utilized is $15.12, thereby reflecting the change in the rate of compensation paid to a Customs officer in the fifth step of GS-9 performing the service. The fees have been rounded off to the nearest tenth of a dollar.

ACTION

The following revised schedule of navigation fees shall be effective during 1983:

Fee No.	Description of services	Fee
1	Entry of vessel, including American, from foreign port:	
	(a) Less than 100 net tons	$7.60
	(b) 100 net tons and over	15.10
2	Clearance of vessel, including American to foreign port:	
	(a) Less than 100 net tons	7.60
	(b) 100 net tons and over	15.10
3	Issuing permit to foreign vessel to proceed from district to district, and receiving manifest	15.10
4	Receiving manifest of foreign vessel on arrival from another district, and granting a permit to unlade	15.10
5	Receiving post entry	7.60
6	Reserved:	
7	Certifying payment of tonnage tax for foreign vessel only	3.80
8	Furnishing copy of official document, including certified outward foreign manifest, and others not elsewhere enumerated	15.10

AUTHORITY

R.S. 251, as amended, 96 Stat. 1051, 92 Stat. 888 (19 U.S.C. 66, 31 U.S.C. 9701, Pub. L. 95-410).

DRAFTING INFORMATION

The principal author of this document was Charles D. Ressin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

GEORGE C. CORCORAN, Jr.,
Acting Commissioner of Customs.

Approved: December 9, 1982.
JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, December 27, 1982 (47 FR 57599)]

(T.D. 83-5)

Customs Approved Public Gauger

Approval of public gauger performing gauging under standards and procedures required by Customs

Notice is hereby given pursuant to the provisions of section 151.43 of the Customs Regulations (19 CFR 151.43) that the application of Curtis & Tompkins, Ltd., 290 Division Street, San Francisco, California 94103, to gauge imported petroleum and petroleum products in the Customs Districts of Seattle, Portland, Los Angeles, San

Francisco and San Diego, in accordance with the provisions of section 151.43, Subpart C, of the Customs Regulations, is approved.

Dated: December 21, 1982.

A. PIAZZA
(For Donald W. Lewis, Director,
Entry Procedures and Penalties Division).

(T.D. 83-6)

Bonds

Approval of a Carriers Bond, Customs Form 3587

A bond of a carrier for the transportation of bonded merchandise has been approved as shown below. The approval of the bond is temporary until January 20, 1983.

Dated: December 23, 1982.

Name of principal and surety	Date of Bond	Date of approval	Filed with district director/area director/amount
Intercoastal Trucking Inc., 8000 Market St., Suite 200, Houston, TX; motor carrier; Old Republic Ins. Co.	Nov. 26, 1982	Dec. 15, 1982	Houston, TX $140,000

BON-3-03

GEORGE C. STEUART
(For Marilyn G. Morrison, Director,
Carriers, Drawback and Bonds Division).

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19 CFR Part 7

(T.D. 83-7)

Customs Regulations Amendment Relating to Articles Imported From Insular Possessions of the United States Other Than Puerto Rico

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide that articles valued at $100 or less coming directly into the United States from an insular possession of the United States other than Puerto Rico may be admitted free of duty pursuant to the Tariff Schedules of the United States, without certain specified accompanying documentation. The current regulation provides for

this treatment for articles valued at $25 or less. This change will result in a reduction in paper work for both importers and Customs, and will expedite the clearance of passengers' baggage and mail parcels containing products from insular possessions.

EFFECTIVE DATE: January 4, 1983.

FOR FURTHER INFORMATION CONTACT: Legal Aspects: Benjamin Mahoney, Entry Procedures and Penalties Division (202-566-5765); Operational Aspects: Eula D. Walden, Office of Cargo Enforcement and Facilitation (202-566-8151); U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

BACKGROUND

General Headnote 3(a), Tariff Schedules of the United States (TSUS, 19 U.S.C. 1202) provides, in part, that articles coming into the customs territory of the United States directly from an insular possession of the United States other than Puerto Rico (Guam, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and American Samoa), which are the growth or product of any such insular possession, or are manufactured or produced in any such possession from materials the growth, product, or manufacture of any such possession or of the customs territory of the United States, or of both, which do not contain foreign materials to the value of more than 50 percent of their total value (or more than 70 percent of their total value with respect to watches and watch movements), are exempt from duty. It further provides that all articles previously imported into the customs territory of the United States with payment of all applicable duties and taxes imposed upon or by reason of importation, which were shipped from the United States without remission, refund, or drawback of such duties and taxes, directly to the insular possession from which they are being returned by direct shipment, are exempt from duty.

Section 7.8(a), Customs Regulations (19 CFR 7.8(a)), provides that when articles coming directly into the United States from an insular possession, other than Puerto Rico, in a shipment valued over $25 are sought to be admitted free of duty under the provisions of General Headnote 3(a), TSUS, relating to certain articles *produced in the insular possessions*, there shall be filed in connection with the entry, a certificate of origin on Customs Form 3229 signed by the chief or assistant chief Customs officer at the port of shipment, showing that the articles are the growth or product of such possession, or were manufactured or produced in such possession from materials the growth, product, or manufacture of any such possession or of the United States, or of both, which do not contain foreign materials to the value of more than 50 percent of their total value. A certificate of origin is not required for any shipment valued at $25 or less.

Section 7.8(b), Customs Regulations (19 CFR 7.8(b)), provides that when articles coming directly into the United States from an insular possession, other than Puerto Rico, in a shipment valued over $25 are sought to be admitted free of duty under the provisions of General Headnote 3(a), TSUS, relating to certain articles *returned to the United States*, there shall be filed in connection with the entry, a certificate on Customs Form 3311, of the district director of Customs at the port from which the articles were shipped from the United States. Section 7.8(b) further provides for a declaration of the shipper of the articles in the insular possession with respect to when the articles were shipped from the United States, and back to the United States. The certificate and declaration requirements of section 7.8(b) are not applicable for shipments valued at $25 or less, or in any case where the district director is satisfied by reason of the nature of the articles or otherwise that they were shipped directly to the insular possession and were returned by direct shipment, and that no drawback of duties or refund or remission of taxes was allowed when the articles were shipped from the United States.

Section 7.8(c), Customs Regulations (19 CFR 7.8(c)), provides that when merchandise, excluding any shipments valued at $25 or less, arrives unaccompanied by certificate of origin or a declaration of the shipper, or when any other document necessary to complete entry is lacking, a bond for the production of any missing document may be accepted by Customs.

Customs has determined that the $25 limit of sections 7.8(a), (b), and (c) should be raised to $100. Due to inflation, the $25 limit is no longer realistic. This change will result in a reduction in paper work for both importers and Customs, and will expedite the clearance of passengers' baggage and mail parcels containing products from the insular possessions.

Section 7.8(d), Customs Regulations (19 CFR 7.8(d)), which relates to the determination as to whether an article contains foreign materials in the value of more than 50 percent of the value of the article for an exemption from duty under General Headnote 3(a), TSUS, must be amended to reflect the fact that the percentage test for watches and watch movements is 70 percent, not 50 percent. General Headnote 3(a), TSUS, was amended to provide for the 70 percent test by Pub. L. 94-88.

Footnote 4 to section 7.8, which set forth previous General Headnote 3(a), TSUS, has been deleted since it is readily available in the TSUS, and its inclusion in the regulations is unnecessary.

In addition, several minor, non-substantive changes are being made to section 7.8.

INAPPLICABILITY OF PUBLIC NOTICE AND DELAYED EFFECTIVE DATE PROVISIONS

Pursuant to 5 U.S.C. 553(b)(B), notice and public procedure are unnecessary because these amendments relieve a burden on the importing public and because they are essentially procedural.

EXECUTIVE ORDER 12291

Because these amendments will not result in a "major rule" as defined by section 1(b) of Executive Order 12291, the regulatory impact analysis prescribed by section 3 of the E.O. is not required.

REGULATORY FLEXIBILITY ACT

This document is not subject to the provisions of sections 603 and 604 of title 5, United States Code, as added by section 3 of Pub. L. 96-354, the "Regulatory Flexibility Act." That act does not apply to any regulation, such as this, for which a notice of proposed rule making is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), or any other statute.

DRAFTING INFORMATION

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

LIST OF SUBJECTS IN 19 CFR 7

Customs duties and inspection, Exports, Imports, Insular possessions of the U.S.

AMENDMENT TO THE REGULATIONS

Part 7, Customs Regulations (19 CFR Part 7), is amended as set forth below.

WILLIAM VON RAAB,
Commissioner of Customs.

Approved: December 15, 1982.
ROBERT E. POWIS,
Acting Assistant Secretary of the Treasury.

[Published in the Federal Register, January 4, 1983 (48 FR 228)]

PART 7—CUSTOMS RELATIONS WITH INSULAR POSSESSIONS AND GUANTANAMO BAY NAVAL STATION

Section 7.8, Customs Regulations (19 CFR 7.8), is revised to read as follows:

§ 7.8 Insular possessions of the United States other than Puerto Rico.

(a) When articles coming directly into the United States from an insular possession, other than Puerto Rico, in a shipment valued over $100 are sought to be admitted free of duty under the provisions of General Headnote 3(a), Tariff Schedules of the United States (19 U.S.C. 1202), relating to certain articles produced in such insular possessions, there shall be filed in connection with the entry a certificate of origin covering articles shipped from insular possessions (except Puerto Rico) to the United States. The certificate shall be on Customs Form 3229, and shall be signed by the chief or assistant chief customs officer at the port of shipment,[8] showing that the merchandise is the growth or product of such possession, or manufactured or produced in such possession, from materials the growth, product, or manufacture of any such possession or of the United States, or of both, which do not contain foreign materials to the value of more than 50 percent of their total value (or more than 70 percent of their total value with respect to watches and watch movements). A certificate shall not be required for any shipment valued at $100 or less.

(b) When articles coming directly into the United States from an insular possession, other than Puerto Rico, in a shipment valued over $100 are sought to be admitted free of duty under the provisions of General Headnote 3(a), Tariff Schedules of the United States, relating to certain articles returned to the United States, there shall be filed in connection with the entry the following evidence:

(1) A certificate, on Customs Form 3311, of the district director at the port from which the merchandise was shipped from the United States. No certificate shall be required if the district director is satisfied by reason of the nature of the articles or otherwise that no drawback of duties or refund or remission of taxes was allowed on the merchandise by reason of the shipment. This certificate shall be issued on application of the importer, or of the district director at the importer's request, and shall be mailed by the issuing officer directly to the port at which it is to be used. If the merchandise was shipped from the port at which entry is made and the fact of shipment appears on Customs records, the fact of return shall be noted on the record but the filing of the certificate on Customs Form 3311 shall not be required; and

---

[8] Guam, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and American Samoa are American territory, but not within the customs territory of the United States. Importations into these islands are not governed by the Tariff Act of 1930 or these Customs Regulations. The Customs administration of American Samoa is under the jurisdiction of the Department of the Interior (Office of Territories). The Customs administration of Wake Island is under the jurisdiction of the Department of the Air Force (General Counsel). The Customs administration of Midway Islands is under the jurisdiction of the Department of the Navy. The Customs administration of Guam is under the Government of Guam. A certificate signed by the Commander at the Johnston Island Air Force Base, or his assistant, shall be acceptable as proof of origin. Kingman Reef is understood to be uninhabited.

(2) A declaration of the shipper in the insular possession in the following form:

I, ——————— of ——————— do hereby declare that to the best of my knowledge and belief the articles identified below were sent directly from the United States on ——— 19 ——, to ———————, of ———————, on (insular possession) the ———————, and that the (Name of carrier) articles remained in said insular possession until shipped by me directly to the United States via the ——————— (Name of carrier) on ———, 19 ——.

Marks	Numbers	Quantity	Description	Value

Dated at ———, this —— day of ———, 19 ——.

(Shipper) ———————.

The declaration shall not be required in any case where the district director is satisfied by reason of the nature of the articles or otherwise that they were shipped directly to the insular possession and were returned by direct shipment.

(c) When merchandise, excluding any shipments valued at $100 or less, arrives unaccompanied by any of the documentation required by this section, or when any other document necessary to complete entry is lacking, a bond for the production of any missing document may be taken on Customs Forms 7551, 7553, or another appropriate form, except that a bond for production of a bill of lading shall be taken on Customs Form 7581.

(d) In determining whether an article produced or manufactured in any such insular possession contains foreign materials to the value of more than 50 percent (or more than 70 percent with respect to watches and watch movements), a comparison shall be made between the actual purchase price of the foreign materials (excluding any material which at the time such article is entered, or withdrawn from warehouse, for consumption in the United States, may be imported into the United States from a foreign country, other than Cuba or the Philippines, free of duty), plus the cost of transportation to such insular possession (but excluding duties and taxes, if any, assessed by the insular possession and any charges which may accrue after landing), and the final appraised value in the United States determined in accordance with section 402, Tariff Act of 1930, as amended (19 U.S.C. 1401a), of the article brought into the United States.

(e) A special Customs invoice on Customs Form 5515 shall be required in connection with each shipment of dutiable merchandise valued over $500 unless the shipment would have been exempt from the requirement of a special Customs invoice under section 141.83 of this chapter if it had been imported from a foreign country, or when the shipment is covered by a certificate of origin provided for in paragraph (a) of this section.

(f) Merchandise may be withdrawn from a bonded warehouse under section 557, Tariff Act of 1930, as amended (19 U.S.C. 1557), for shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or Guam, without payment of duty, or with a refund of duty if the duties have been paid, in like manner as for exportation to foreign countries. No drawback may be allowed under section 313, Tariff Act of 1930, as amended (19 U.S.C. 1313), on articles manufactured or produced in the United States and shipped to any insular possession. No drawback of internal-revenue tax is allowable under 19 U.S.C. 1313 on articles manufactured or produced in the United States with the use of domestic tax-paid alcohol and shipped to Wake Island, Midway Islands, Kingman Reef, or Johnston Island.

(T.D. 83-8)

Bonds

Approval and discontinuance of Carrier's Bonds, Customs Form 3587

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: December 29, 1982.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Air North/Northern Airways; Div. of ANA, Ltd., Burlington International Airport, South Burlington VT; air carrier; Aetna Ins. Co.	Nov. 23, 1982	Nov. 23, 1982	St. Albans, VT $100,000
Audet & Megantic Transport Ltd., 3654 Lemieux St., Lac Megantic, P.Q., Canada; motor carrier; Northwestern National Ins., Co. of Milwaukee, WI	June 1, 1982	Nov. 12, 1982	Ogdensburg, NY $50,000
B & H Trucking Co., 1441 Ferry Ave., Camden, NJ; motor carrier; The North River Ins., Co.	Oct. 19, 1982	Oct. 27, 1982	Philadelphia, PA $25,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Bendix Transportation Management Corp., 29650 Civic Center Dr., Southfield, MI; motor carrier; Seaboard Surety Co.	Oct. 5, 1982	Nov. 3, 1982	Chicago, IL $25,000
Canton Railroad Co., 401 E. Pratt St., World Trade Center, Baltimore, MD; rail carrier; Federal Ins. Co. D 11/17/82	Feb. 6, 1981	Feb. 28, 1981	Baltimore, MD $100,000
Carolina Western Express, Inc., P.O. Box 3995, Gastonia, NC; motor carrier; Employers Ins. of Wausau (PB 9/30/82) D 11/1/82 [1]	Oct. 20, 1982	Nov. 2, 1982	Wilmington, NC $25,000
Catalytic Enterprises Ltd., 201 N. Front St., Sarnia, Ontario, Canada; motor carrier; Ins. Co. of North America	Oct. 27, 1982	Nov. 17, 1982	Buffalo, NY $25,000
Coast Line Express, 5240 W. 83rd St., Los Angeles, CA; motor carrier; St. Paul Fire & Marine Ins. Co.	Oct. 14, 1982	Nov. 15, 1982	Los Angeles, CA $50,000
Combs Airways, Inc., dba: Combs Freightair, 3390 Syracuse St., Denver, CO; air carrier; The Aetna Casualty & Surety Co.	May 27, 1982	Nov. 17, 1982	St. Louis, MO $50,000
Dallas and Mavis Forwarding Co., Inc., 4314–39th Ave., Kenosha, WI; motor carrier; American Motorists Ins., Co. D 12/12/82	Oct. 1, 1977	Oct. 31, 1977	Milwaukee, WI $25,000
Hadley Auto Transport, 7428 Paramount Blvd., Pico Rivera, CA; motor carrier; Ins. Co. of North America	Sept. 22, 1982	Nov. 15, 1982	Los Angeles; CA $50,000
William Hafer Drayage Co., Inc., Sharon & Mosteller Rds., Cincinnati, OH; motor carrier; The Aetna Casualty & Surety Co.	Nov. 9, 1982	Nov. 24, 1982	Cleveland, OH $50,000
Hockersmith & Sons, Inc., dba: Hockersmith Air Freight, 230 North West F St., P.O. Box 1740 Richmond, IN; motor carrier; Union Indemnity Ins. Co. of NY	Nov. 1, 1982	Nov. 17, 1982	Cleveland, OH $50,000
Holiday Express Corp., 1814 Seventh Ave., S. Estherville, IA; motor carrier; Fidelity & Deposit Co. of MD	July 29, 1982	Nov. 18, 1982	Chicago, IL $50,000
Holt Cargo Systems Inc., 701 N. Broadway, Gloucester City, NJ; motor carrier; Aetna Casualty & Surety Co. (PB 3/27/79) D 11/12/82 [2]	Nov. 10, 1982	Nov. 12, 1982	Philadelphia, PA $25,000
International Trucking Co., Inc.—See Villanueva Transfer, Inc.			
Interstate Rental, Inc.—See Western Express Division			
M. Kobayashi Trucking, 1074 W. Highway 86, Westmorland, CA; motor carrier; Old Republic Ins. Co. (PB 11/24/75) D 11/4/82 [3]	Oct. 7, 1982	Nov. 4, 1982	San Diego, CA $50,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Kwikssair Express Inc., 1699 Wall St., Mt. Prospect, Ill.; motor carrier; St. Paul Fire & Marine Ins. Co.	Nov. 1, 1982	Nov. 12, 1982	Chicago, IL $50,000
Lewis Truck Lines, Inc., Rt. 6, Box 65A, Conway, SC; motor carrier; United States Fire Ins. Co. D 11/5/82	Jan. 12, 1978	Mar. 8, 1978	Charleston, SC $25,000
Motor Freight Express, Inc., P.O. Box 1029, York, PA; motor carrier; Aetna Casualty & Surety Co. D 12/16/82	May 18, 1982	Aug. 30, 1982	Philadelphia, PA $25,000
Murphy World Wide Transportation Services, 3434 State Rd., Bensalem, PA; motor carrier; American Casualty Co. of Reading, PA	Sept. 8, 1982	Nov. 12, 1982	Philadelphia, PA $25,000
Parsec, Inc., 1100 Gest St., Cincinnati, OH; motor carrier; The Aetna Casualty & Surety Co.	Oct. 1, 1982	Oct. 1, 1982	Miami, FL $25,000
Rail Head Transfer, Inc., 275 Distribution St., Port Newark, NJ; motor carrier; Washington International Ins. Co.	Oct. 21, 1982	Nov. 10, 1982	Newark, NJ $50,000
Sair Aviation Inc., 1801 Malden Rd., Syracuse, NY; air carrier; Fidelity & Deposit Co. of MD	Nov. 2, 1982	Nov. 22, 1982	Buffalo, NY $25,000
Selective Cartage Corp., 560 60th St., West New York, NJ; motor carrier; St. Paul Fire & Marine Ins. Co. (PB 4/30/71) D 10/25/82 [4]	Aug. 26, 1982	Oct. 25, 1982	New York Seaport $200,000
Suwannee Transfer Inc., 2627 Buckman St., Jacksonville, Fl; motor carrier; St. Paul Fire & Marine Ins. Co. D 11/8/82	Nov. 9, 1977	Mar. 8, 1978	Tampa, FL $25,000
Toss-Fowler, 424 W. 4th., Bridgeport, PA; motor carrier; American Casualty Co. of Reading, PA (PB 8/20/79) D 11/12/82 [5]	Oct. 7, 1982	Nov. 7, 1982	Philadelphia, PA $200,000
Viking Transport Co., Rd. #1, Olyphant, PA; motor carrier; Washington International Ins. Co.	Aug. 1, 1982	Nov. 9, 1982	Philadelphia, PA $25,000
Villanueva Transfer, Inc., and/or International Trucking Co., Inc., 201 Corpus Christi St., Laredo, TX; motor carrier; St. Paul Fire & Marine Ins. Co. (PB 9/4/80) D 10/27/82 [6]	Oct. 26, 1982	Oct. 27, 1982	Laredo, TX $25,000
Western Express, Div. of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA; motor carrier; Travelers Indemnity Co. (PB 8/17/78) D 11/11/82 [7]	Nov. 1, 1982	Nov. 12, 1982	Los Angeles, CA $60,000

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[1] Surety is Lawyers Surety Corp.
[2] Principal is Holt Motor Express, Inc.
[3] Surety is The Travelers Indemnity Co.

[4] Surety is Sentry Ins., a Mutual Co.
[5] Principal is Tass, Inc.; Surety is American Motorist Ins. Co.
[6] Surety is U.S. Fidelity & Guaranty Co.
[7] Surety is St. Paul Fire & Marine Ins. Co.

BON-3-03

George C. Steuart
(For Marilyn G. Morrison, Director,
Carriers, Drawback and Bonds Division).

(T.D. 83-9)

Bonds

Approval to use authorized facsimile signatures and seals; T.D. 79-241 amended

The use of facsimile signatures and facsimile seals on Customs bonds by the following corporate surety has been approved effective January 3, 1983.

The corporate surety has provided the Customs Service with a copy of each signature that is to be used, a copy of the corporate seal, and a certified copy of the corporate resolution agreeing to be bound by the facsimile signatures and seals. This approval is without prejudice to the surety's right to affix signatures and seals manually.

Associated Indemnity Corporation, San Francisco, California.

Authorized facsimile signatures on file for: Donald J. Nowacki, Loretta E. Anstey.

BON-3-01

Dated: January 3, 1983.

George C. Steuart
(For Marilyn G. Morrison, Director,
Carriers, Drawback and Bonds Division).

(T.D. 83-10)

Bonds, List of Approved Riders

Customs bond riders "L" and "N" amended

Customs bond riders "L" and "N" were first published in T.D. 73-198 and 73-329, respectively. The Customs Procedural Reform and Simplification Act of 1978 made changes in entry procedures which dictate amendment of these riders to conform them to law.

George C. Steuart
(For Marilyn G. Morrison, Director,
Carriers, Drawback and Bonds Division).

(BON-2)

Dated: January 3, 1983.

L—Immediate delivery conditions—to be added to Customs Form 7563–A

In addition to the conditions appearing in the bond dated —————————, executed by —————————, as principal, and —————————, as surety, to which this stipulation relates, it is hereby expressly agreed by the principal and surety thereon that the following additional conditions shall apply:

> If, in cases where the merchandise has been released prior to entry pursuant to section 448(b) of the Tariff Act of 1930, the above-bounden principal, within the time prescribed in the Customs Regulations, after the release of the articles described in the application for a special permit, shall make temporary importation entry under bond for such articles; or if, in cases where entry is made pursuant to section 484 of the Tariff Act of 1930, the above-bounden principal, within the time prescribed in the Customs Regulations, shall file with the appropriate Customs officer the documentation required by the Customs Regulations to enable Customs to (1) determine whether the merchandise may be released from Customs custody, (2) properly assess duties on the merchandise, (3) collect accurate statistics with respect to the merchandise, and (4) determines whether applicable requirements of law or regulation are met, and if the above-bounden principal, within the time prescribed in the Customs Regulations, shall make temporary importation entry under bond for such articles; or if, in the event of failure to make temporary importation entry, or file a temporary importation bond, he shall pay to the district director of Customs as liquidated damages an amount equal to the value of the merchandise plus the duties and taxes thereon (it being understood and agreed that the amount to be collected shall be based upon the quantity and value of such merchandise as determined by the district director, and that the decision of the district director as to the status of such merchandise, whether free or dutiable, together with the rate and amount of duties and taxes, also shall be binding on all parties to this obligation).

Witness our hands and seals this —— day of —— 19 ——.

(Witness Name and Address) —————————

(Witness Name and Address) —————————

(Principal) ————————— [SEAL]

(Witness Name and Address) —————————

(Witness Name and Address) —————————

(Surety) ————————— [SEAL]

(Witness Name and Address) —————————

(Witness Name and Adress) —————————

(Surety) ————————— [SEAL]

(Certificate as to Corporate Principal to be attached if necessary, 19 CFR 113.34(c)).

N—Deposit of merchandise in a bonded warehouse prior to the filing of a warehouse entry therefor—to be added to Customs Form 7553.

In lieu of condition (2)(a) or (2)(b) appearing in the bond dated ————, in the amount of ——, executed by ————, as principal, and ————, as surety, to which this stipulation relates, it is hereby expressly agreed by the principal and surety thereon that the following conditions shall apply:

(2)(a) If, when entry is made pursuant to section 484, Tariff Act of 1930, as amended, the above-bounden principal, within the time prescribed in the Customs Regulations shall file with the appropriate Customs officer the documentation required by the Customs Regulations to enable Customs to (1) determine whether the merchandise may be released from Customs custody, (2) properly assess duties on the merchandise, (3) collect accurate statistics with respect to the merchandise, and (4) determine whether applicable requirements of law or regulation are met; and if the above-bounden principal, within the time prescribed in the Customs Regulations, shall deposit the duties and taxes imposed upon or by reason of importation estimated to be due thereon, or in case the merchandise is to be entered for warehouse, file the usual warehouse entry bond; or if, in the event of failure to file the documentation or to deposit duties and taxes, or file the usual warehouse entry bond, he shall pay to the district director of Customs as liquidated damages an amount equal to the value of the merchandise as to which there shall have been default plus the duties and taxes thereon (it being understood and agreed that the amount to be collected shall be based upon the quantity and value of the merchandise as determined by the district director, and that the decision of the district director as to the status of the merchandise, whether free or dutiable, together with the rate and amount of duties and taxes, also shall be binding all parties to his obligation);

(2)(b) If, in cases where the merchandise has been released prior to entry pursuant to section 448(b) of the Tariff Act of 1930, as amended, the above-bounden principal within the time prescribed in the Customs Regulations, after the release of the articles described in the application for a special permit, shall make entry for such articles and deposit the duties and taxes imposed upon or by reason of importation estimated to be due thereon, or in case the merchandise is to be entered for warehouse, file the usual warehouse entry bond; or if, in the event of failure to make entry or to deposit such duties and taxes, or file the usual warehouse entry bond, he shall pay to the district director of Customs as liquidated damages an amount equal to the value of the merchandise plus the duties and taxes thereon (it being understood and agreed that the amount to be collected shall be based upon the quantity and value of such merchandise as determined by the district director, and that the decision of the district director as to the status of such merchandise, whether free or dutiable, together with the rate and amount of duties and taxes, also shall be binding on all parties to this obligation);

Witness our hands and seals this —— day of ———, 19——.

(Witness Name and Address) ————————————

(Witness Name and Address) ————————————

(Principal) ———————————— [SEAL]

(Witness Name and Address) ————————————

(Witness Name and Address) ————————————

(Surety) ———————————— [SEAL]

(Witness Name and Address) ————————————

(Witness Name and Address) ————————————

(Surety) ———————————— [SEAL]

(Certificate as to Corporate Principal to be attached if necessary, 19 CFR 113.34(c)).

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19 CFR Part 4

(T.D. 83-11)

SPECIAL TONNAGE TAX AND LIGHT MONEY; PAYMENT EXEMPTION; REPUBLIC OF VANUATU

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule amends the Customs Regulations by adding the Republic of Vanuatu to the list of nations whose vessels are exempted from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money. Satisfactory evidence has been furnished by the Department of State that no discriminating duties of tonnage or imposts are imposed in ports of the Republic of Vanuatu upon vessels belonging to citizens of the United States or on their cargoes. This document provides reciprocal privileges to vessels registered in the Republic of Vanuatu.

EFFECTIVE DATE: July 30, 1980.

FOR FURTHER INFORMATION CONTACT: John A. Mathis, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Generally, the United States imposes regular and special ton
nage taxes, and a duty of a specified amount per ton, known a
“light money,” on all foreign vessels which enter United State
ports (46 U.S.C. 121, 128). However, vessels of a foreign nation ma
be exempted from the payment of special tonnage taxes and ligh
money upon presentation of proof satisfactory to the President tha
no discriminatory duties of tonnage or imposts are imposed by tha
foreign nation on United States vessels or their cargoes (46 U.S.C
141). The President has delegated the authority to grant this ex
emption to the Secretary of the Treasury. Further, under Treasur
Department Order No. 165-25, dated August 5, 1982, the Secretar
of the Treasury has delegated to the Commissioner of Customs th
authority to grant this exemption and prescribe regulations rela
ing to section 4.22, Customs Regulations (19 CFR 4.22), which list
those nations whose vessels have been exempted from the paymen
of any higher tonnage duties than are applicable to vessels of th
United States and from the payment of light money. Subsequentl
by Customs Delegation Order No. 66 (T.D. 82-201), dated Octobe
13, 1982, the Commissioner delegated this authority to the Assis
ant Commissioner (Commercial Operations). Authority to gran
this exemption and to amend section 4.22 was delegated from th
Assistant Commissioner (Commercial Operations), to the Directo
Office of Regulations and Rulings who then redelegated this au
thority to the Director, Regulations Control and Disclosure Law D
vision.

By letter dated July 28, 1982, the Department of State advise
Customs that satisfactory evidence exists that no discriminatin
duties of tonnage or imposts are imposed or levied in ports of th
Republic of Vanuatu upon vessels wholly belonging to citizens
the United States, or upon the produce, manufactures, or merchan
dise imported into the Republic of Vanuatu on vessels from th
United States. Consequently, the Department of State recommen
ed that the Republic of Vanuatu be added, effective July 30, 198
the date it came into existence, to the list of nations whose vesse
are exempted from the payment of the U.S. special tonnage t
and light money.

DECLARATION

Therefore, by virtue of the authority vested in the President
section 4228 of the Revised Statutes, as amended (46 U.S.C. 14
and delegated to the Secretary of the Treasury by Executive Ord
No. 10289, September 17, 1951, as amended by Executive Order N
10882, July 18, 1960 (3 CFR, 1959-1963 Comp., Ch II), and pursua
to the authorization provided by Treasury Department Order N
101-5 (47 FR 2449), Treasury Department Order No. 165-25, (47
37993), Customs Delegation Order No. 66 (T.D. 82-201), and furtl

delegated to the Director, Regulations Control and Disclosure Law Division, I declare that the foreign discriminating duties of tonnage and imposts within the United States are suspended and discontinued, in respect to vessels of the Republic of Vanuatu and the produce, manufactures, or merchandise imported into the United States in such vessels from the Republic of Vanuatu or from any other foreign country.

This suspension and discontinuance shall take effect from July 30, 1980, in respect to vessels of the Republic of Vanuatu, and shall continue only for so long as the reciprocal exemptions of vessels wholly belonging to citizens of the United States and their cargoes shall be continued.

AMENDMENT TO THE REGULATIONS

To reflect the reciprocal privileges granted to vessels registered in the Republic of Vanuatu, the list in section 4.22, Customs Regulations (19 CFR 4.22), of nations whose vessels are exempted from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money, is amended by adding the Republic of Vanuatu in appropriate alphabetical order. (R.S. 251, as amended, 4219, as amended, 4255, as amended, 4228, as amended, section 3, 23 Stat. 119, as amended, section 624, 46 Stat. 759 (19 U.S.C. 66, 1624, 46 U.S.C. 5, 121, 128, 141))

INAPPLICABILITY OF PUBLIC NOTICE AND DELAYED EFFECTIVE DATE REQUIREMENTS

Because this amendment merely implements a statutory requirement and involves a matter in which the public is not particularly interested, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are unnecessary. Further, for the same reasons, good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d)(1).

INAPPLICABILITY OF THE REGULATORY FLEXIBILITY ACT

This document is not subject to the provisions of sections 603 and 604 of title 5, United States Code, as added by section 3 of Pub. L. 96-354, the "Regulatory Flexibility Act." That Act does not apply to any regulation such as this for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) or any other statute.

EXECUTIVE ORDER 12291

This amendment does not meet the criteria for a major regulation as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

DRAFTING INFORMATION

The principal author of this document was James S. Demb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices of the Customs Service and the Departments of State and Treasury participated in its development.

Dated: January 4, 1983.

B. JAMES FRITZ,
Director, Regulations Control and
Disclosure Law Division.

[Published in the Federal Register, January 11, 1983 (48 FR 1185)]

(T.D. 83-12)

Bonds

Approval and discontinuance of bonds on Customs Form 7587 for the control of Instruments of International Traffic of a kind specified in section 10.41a of the Customs Regulations

Bonds on Customs Form 7587 for the control of instruments of international traffic of a kind specified in section 10.41a of the Customs Regulations have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: January 5, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Air Mar Shipping, Inc., 351 Tetuan St., 4th Floor, Old San Juan, PR; St. Paul Fire & Marine Ins. Co. (PB 1/17/79) D 11/4/82	Nov. 5, 1982	Nov. 5, 1982	San Juan, PR $10,000
American Coastal Line Joint Venture Inc., 305 Broadway, New York, NY; Washington International Ins. Co.	Nov. 2, 1982	Nov. 3, 1982	New York Seaport $10,000
Avco Corporation (A DE Corp.) & its div: Aerostructures Div., P.O. Box 210, Nashville, TN; American Casualty Co. of Reading, PA	Nov. 8, 1982	Nov. 18, 1982	New York Seaport $10,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Bellows & Co.—See National Distillers & Chemical Corp.			
Bridgeport Brass Co.—See National Distillers & Chemical Corp.			
Coastal Stevedoring Co., 100 Terminal Dr., Fort Pierce, FL; St. Paul Fire & Marine Ins. Co.	Nov. 16, 1982	Nov. 16, 1982	Tampa, FL $10,000
Emery Industries—See National Distillers & Chemical Corp.			
Flexi Van Leasing, Inc.—See Uniflex Division			
Adalberto Gonzalez, 529-1 Webster St., Eagle Pass, TX; Old Republic Ins. Co. D 10/21/82	Sept. 19, 1981	Sept. 22, 1981	Laredo, TX $10,000
Holland House Brands—See National Distillers & Chemical Corp.			
Fred Imbert Inc., Exide Bldg. 2nd Floor, Fernandez Juncos Ave., or P.O. Box 4424, San Juan, PR; Ins. Co. of North America (PB 10/1/81) D 10/30/82	Sept. 23, 1982	Oct. 31, 1982	San Juan, PR $10,000
Industrial Chemicals Co.—See National Distillers & Chemical Corp.			
Lockwood Corp., P.O. Box 160, Hwy. 92 East, Gering, NB; U.S. Fidelity and Guaranty Co.	Sept. 16, 1982	Nov. 15, 1982	Pembina, ND $30,000
Master Modular Homes, Inc., PR-2, Km 20.6, Candelaria Ward, Toa Baja, PR; C.N.A. Casualty of PR	Oct. 14, 1982	Oct. 28, 1982	San Juan, PR $25,000
Munson Shaw Co.—See National Distillers & Chemical Corp.			
National Distillers & Chemical Corp. (a VA Corp.) & its div. Bellows & Co., Bridgeport Brass Co., Emery Industries, Munson Shaw Co., National Distillers Products Co., U.S. Industrial Chemicals Co., Vincent Brass & Aluminum Co., 99 Park Ave., New York, NY; Federal Ins. Co. (PB 12/18/78) D 11/9/82 [1]	Nov. 9, 1982	Nov. 15, 1982	New York Seaport $10,000
Neptune Marine Agency, Inc., 8201 La Porte Freeway, Suite 100, Houston, TX; Washington International Ins. Co.	Nov. 4, 1982	Dec. 1, 1982	Houston, TX $10,000
New England Shipping Agency, Inc., 15 Broad St., Boston, MA; American Employers' Ins. Co. D 10/29/82	Sept. 9, 1975	Sept. 9, 1975	Boston, MA $10,000
Nissan Motor Mfg. Corp. U.S.A., Smyrna, TN; Ins. Co. of North America	Oct. 22, 1982	Nov. 17, 1982	New Orleans, LA $20,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Old Grand-Dad Distillery Co.—See National Distillery & Chemical Corp.			
Overseas Enterprises, Inc., 1 World Trade Center, New York, NY; American Casualty Co. of Reading, PA D 10/18/82	Aug. 5, 1980	Aug. 5, 1980	New York Seaport $10,000
Refrigeration Equipment Co., Inc., 1606 Carondelet St., New Orleans, LA; St. Paul Fire & Marine Ins. Co. D 12/14/82	Dec. 14, 1979	Dec. 19, 1979	New Orleans, LA $10,000
Rhone-Poulenc Inc., 125 Black Horse Lane, Brunswick, NJ; Washington International Ins. Co. (PB 11/27/79) D 11/27/82 [2]	Nov. 27, 1982	Nov. 28, 1982	New York Seaport $20,000
Tankcargo Container Leasing Inc., 50 Broadway, New York, NY; Old Republic Ins. Co.	Nov. 11, 1982	Nov. 26, 1982	Houston, TX $10,000
Uniflex Div., Flexi Van Leasing, Inc., 444 Brickell Ave., Suite M-132, Miami, FL; St. Paul Fire & Marine Ins. Co.	Oct. 7, 1982	Oct. 7, 1982	Miami, FL $10,000
Vincent Brass & Aluminum Co.—See National Distillers & Chemical Corp.			
Welding & Cutting Equipment Co., 855 Raymond Blvd., Newark, NJ; American Motorists Inc. Co. D 12/6/82	Oct. 16, 1979	Oct. 16, 1979	New York Seaport $10,000

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[1] Principal is National Distillers & Chemical Corp., wholly owned sub: The Old Grand-Dad Distillery Co., its Division-Holland House Brands.

[2] Surety is Old Republic Ins. Co.

BON-3-10

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

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19 CFR Part 177

(T.D. 83-13)

Customs Regulations Amendments Relating to Country-of-Origin Determinations

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to reflect the Government procurement provisions of the "Trade Agreements Act of 1979." The amendments establish a procedure where-

by any party-at-interest to a Government procurement may request the issuance of country-of-origin advisory rulings and final determinations relating to Government procurement for the purpose of granting waivers of certain "Buy American" restrictions for products of eligible countries.

EFFECTIVE DATE: This rule is effective on February 10, 1983.

FOR FURTHER INFORMATION CONTACT: Benjamin Mahoney, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5778).

SUPPLEMENTARY INFORMATION:

BACKGROUND

The "Trade Agreements Act of 1979," Pub. L. 96-39, 93 Stat. 144 (the "Act"), approves and implements the trade agreements negotiated by the United States in the Tokyo Round of Multilateral Trade Negotiations. The Act consists of 11 separate titles. This document relates only to those aspects of Title III of the Act, "Government Procurement," which affect Customs activities (section 301 *et seq.*, 93 Stat. 236 *et seq.*, 19 U.S.C. 2511 *et seq.*)

Title III of the Act, which implements the Agreement on Government Procurement, permits the President to waive those portions of U.S. law or practice, most notably the Buy American Act (41 U.S.C. 10a *et seq.*) which discriminate against the procurement of products of designated countries. Designated countries are those which are parties to the Agreement on Government Procurement, which provide reciprocal procurement benefits to the United States, or which are least developed countries. The Act permits the President to prohibit Federal Government procurement of products from non-designated countries. Furthermore, the Act authorizes the President to withdraw or to limit waivers or designations previously granted.

A waiver can only apply to goods which are the products of a country designated by the President under section 301(b) of the Act. In order to implement this provision, section 305(b) of the Act provides that the Secretary of the Treasury shall provide country-of-origin advisory rulings and final determinations on whether a product is or would be a product of a designated country. The rule of origin to be applied is specified in section 308(4)(B) of the Act. Judicial review of these final determinations is provided for in section 1001 of the Act (28 U.S.C. 1581(e)).

On April 9, 1981, Customs published a notice in the Federal Register (46 FR 21194), proposing to amend Part 177, Customs Regulations (19 CFR Part 177), to implement Title III of the Act. The only comment received in response to the notice was from the embassy of a foreign government. During the course of the interagency evaluation of this comment, the United States Trade Representative

(USTR) raised questions which necessitated significant changes to the proposed rule. Because of the substantial modifications, Customs determined that the proposed rule should be republished thereby providing another opportunity for public comment. Accordingly, on June 16, 1982, a second notice of proposed rulemaking was published in the Federal Register (47 FR 25975). The comments received and the changes made as a result are discussed below.

DISCUSSION OF PUBLIC COMMENTS AND CHANGES

Who May Request Rulings and Determinations

The commenter on the first proposed rule objected to proposed section 177.24 which would have limited the parties who could file a ruling request to "a foreign manufacturer, producer, or exporter, or a United States importer of merchandise, or by a duly authorized attorney or agent on their behalf." The commenter believed that the proposed rule should be broadened to include interested parties so that a foreign embassy could intervene on behalf of one of its nationals.

The USTR was of the opinion that proposed sections 177.23 and 177.24 were too narrow in their coverage and should be amended to include all "parties-at-interest" as defined in section 1001(b)(4)(B) of the Act. Section 1001(b)(4)(B) (codified at 28 U.S.C. 1581(e), 2631(e), and 2631(k)(2)) relates to the jurisdiction of the Court of International Trade to review final determinations made under the provisions of section 305(b)(1) of the Act. Section 1001(b)(4)(B) in pertinent part states that:

> * * * The Customs Court (the Court of International Trade was substituted by the "Customs Courts Act of 1980," Pub. L. 96-417) shall have exclusive jurisdiction of any civil action brought by a party-at-interest to review a final determination made under section 305(b)(1) of the Trade Agreements Act of 1979. For purposes of this subsection, the term "party-at-interest" means—
>
> (1) A foreign manufacturer, producer, or exporter, or a United States importer of merchandise which is the subject of a final determination under section 305(b) of the Trade Agreements Act of 1979,
>
> (2) A manufacturer, producer, or wholesaler in the United States of a like product,
>
> (3) United States members of a labor organization or other association of workers whose members are employed in the manufacture, production, or wholesale in the United States of a like product, and
>
> (4) A trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States.

After publication of the first proposed rule, the USTR advised Customs that section 1001 was intended to cover any party-at-interest. The second proposed rule modified the definition to conform to USTR's position. None of the commenters objected to the interpretation of the term "party-at-interest" set forth in the second notice. Accordingly, the definition is adopted in the final rule as it was set forth in section 177.22(d) of the second notice.

FRAUDULENT CLAIMS

Traditionally, Customs has not gone beyond the facts presented in a ruling request to verify the truth of the claims presented therein. In the second notice it was stated that Customs does not intend to alter this procedure for country-of-origin final determinations. Although Customs recognizes that disputes may arise as a result of allegations or complaints that certain processing or manufacturing claimed to have been performed in a designated country is not, in fact, being done there, it was stated that Customs position would be that a party raising such a claim was not requesting a final determination within the meaning of the Act but alleging a fraudulent practice. Customs authority under the Act relates only to issuing rulings and not to investigating complaints of a factual nature such as verifying that processing or manufacturing is or is not being done in a designated foreign country. Accordingly, it was Customs position in the second notice that alleged claims of fraudulent practices will be referred to the procuring agency involved for appropriate processing.

All of the commenters addressing the problem of fraudulent claims stated that Customs should help ascertain facts as to whether a party-at-interest's claim of origin is, in fact, true. In fact, one commenter asserted that Customs is required to undertake a factual investigation of whether processing or manufacturing is or is not being done in a designated foreign country. Customs does not agree with this commenter. The relevant provision of the Act provides that:

> * * * the Secretary of the Treasury shall provide for the prompt issuance of advisory rulings and final determinations on whether * * * an article is or would be a product of a foreign country or instrumentality * * * (19 U.S.C. 2515(b)(1)).

The Act does not specify the manner in which Customs must make these determinations. Under the proposed regulations the requester would verify that his claims are truthful and the procuring agency would be responsible for investigating allegations of fraud. Nowhere does the Act tie the imposition of civil or criminal penalties with Customs responsibility for investigating such violations. Customs does not believe the procuring agencies assumption of the responsibility for investigating allegations of fraudulent practice contravenes the Act. Therefore, Customs does not believe any change to the proposed regulation is required. The fact that under the proposed regulations the procuring agency would have the primary responsibility for investigating allegations that the facts presented to Customs relating to the country of origin are false (*i.e.* fraudulent claims) does not prevent Customs from cooperating with procuring agencies in uncovering fraudulent claims. As a matter of policy Customs will cooperate with the procuring agencies in every way possible to uncover fraudulent claims and assist in the investigation of fraudulent claims that are uncovered.

ISSUANCE OF RULINGS—TIME PERIOD—INSUFFICIENT INFORMATION

The commenter on the first notice stated that proposed section 177.28, relating to advisory rulings, and proposed section 177.29, relating to appeals, provided that the failure of the Director, Entry Procedures and Penalties Division, Headquarters, U.S. Customs Service, to issue an advisory ruling within 25 days or to render a final determination on an appeal within 30 days, would automatically result in a decision that the article is not or would not be considered to be a product of the claimed country. The Commenter concluded that such a procedure would leave the party requesting a ruling or appeal with no knowledge of why the request or appeal had been denied. The commenter believed that in some cases the requester could be subject to an adverse ruling as a result of delay or oversight on the part of Customs. The commenter felt that a written response outlining the specific reasons why Customs does not consider the merchandise to be a product of the foreign country would provide the requester with an opportunity to make adjustments in its process of manufacture so that a favorable ruling could be obtained. The USTR echoed the commenters views and suggested that the time frames set forth in the proposed rule be deleted.

Since international obligations of the U.S. do not require the time constraints Customs originally proposed, and budgetary limitations would render them unrealistic in any event, Customs deleted the time constraints in the second notice.

Several commenters on the second notice recommended that the final rule include a 25 day time period in which Customs must issue an advisory ruling or final determination. The Act (19 U.S.C. 2515) requires that Customs promptly issue advisory rulings and final determinations but does not impose a specific time limit. Since the time required to promptly issue an advisory ruling or a final determination will depend on the circumstances and issues raised by the requester, Customs still does not believe a specific time limit would be appropriate. However, section 177.28 of the final rule has been revised to indicate that Customs will "promptly" issue advisory rulings and final determinations.

The same commenters stated that an exemption to the "Buy America" provisions should not be granted if there is insufficient information to issue an advisory ruling or a final determination. Under the proposed regulations Customs would not issue a final determination if the request does not include the information required. Since neither an advisory ruling nor a refusal on Customs' part to issue a final determination would bind the United States on a determination of products eligible for a Presidential waiver under 19 U.S.C. 2511(a), Customs' refusal to issue final determinations would not constitute waivers of the Buy American Act. Therefore, the concerns of the commenters do not appear to be relevant to the regulations as currently drafted.

After consideration of the comments received and further review of the matter, it has been determined to adopt the proposal, with a single modification noted above.

EXECUTIVE ORDER 12291

These amendments do not meet the criteria for a major rule as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

REGULATORY FLEXIBILITY ACT

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the rule will not have a significant economic impact on a substantial number of small entities. Any economic impact flows directly from the Trade Agreement Act of 1979 and not the proposed implementation regulations. The implementing regulations are not expected to have significant secondary or incidental effects on a substantial number of small entities or impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule will not have a significant economic impact on a substantial number of small entities.

DRAFTING INFORMATION

The principal author of this document was John E. Elkins, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices, the Treasury Department, and the USTR participated in its development.

LIST OF SUBJECTS IN 19 CFR PART 177

Administrative practices and procedures, Country-of-Origin rulings, Government procurement.

AMENDMENTS TO THE REGULATIONS

Part 177, Customs Regulations (19 CFR Part 177), is amended as set forth below.

GEORGE C. CORCORAN, JR.,
Acting Commissioner of Customs.

Approved: December 23, 1982.
JOHN M. WALKER, JR.,
Assistant Secretary of the Treasury

[Published in the Federal Register, January 11, 1983 (48 FR 1187)]

PART 177—ADMINISTRATIVE RULINGS

1. Part 177 is amended by adding a subpart designation before § 177.1 to read as follows:

SUBPART A—GENERAL RULING PROCEDURE

2. A new Subpart B is added to Part 177 to read as follows:

SUBPART B—GOVERNMENT PROCUREMENT; COUNTRY-OF-ORIGIN DETERMINATIONS

Sec.
177.21 Applicability.
177.22 Definitions.
177.23 Who may request a country-of-origin advisory ruling of final determination.
177.24 By whom request is filed.
177.25 Form and content of request.
177.26 Where request filed.
177.27 Oral discussion of issues.
177.28 Issuance of advisory rulings and final determinations.
177.29 Publication of notice of final determinations.
177.30 Review of final determinations.
177.31 Reexamination of final determinations.

AUTHORITY: R.S. 251, as amended (19 U.S.C. 66), sec. 624, 46 Stat. 759 (19 U.S.C. 1624); Pub. L. 96-39, 93 Stat. 144.

§ 177.21 Applicability.

This subpart applies to the issuance of country-of-origin advisory rulings and final determinations relating to Government procurement under Title III, "Trade Agreements Act of 1979," Pub. L. 96-39, 93 Stat. 144, for the purpose of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products for eligible countries. This subpart is intended to be applied consistent with the Federal Procurement Regulations (41 CFR Part 1-6) and the Defense Acquisition Regulation (32 CFR Section VI).

§ 177.22 Definitions.

(a) *Country of origin.* For the purpose of this subpart, an article is a product of a country or instrumentality only if (1) it is wholly the growth, product, or manufacture of that country or instrumentality, or (2) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has

been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed. The term "instrumentality" shall not be construed to include any agency or division of the government of a country, but may be construed to include such arrangements as the European Economic Community.

(b) *Advisory ruling.* An advisory ruling is a non-binding, non-reviewable written statement issued by the Director, Entry Procedures and Penalties Division, Headquarters, U.S. Customs Service, which does no more than call attention to a well established interpretation or principle of law relating to the country of origin, without applying it to a particular set of facts. Customs will issue an advisory ruling in response to a request for a final determination if:

(1) The request suggests that general information, rather than a final determination, is actually being sought,

(2) The request is incomplete or otherwise fails to meet the requirements set forth in § 177.25(a), or

(3) The ruling requested cannot be issued for any other reason, and Customs believes that the general information supplied by an advisory ruling may be of some benefit to the party making the request. An advisory ruling is not a ruling issued prior to importation under 28 U.S.C. 1581(h).

(c) *Final determination.* A final determination is a binding judicially reviewable statement issued by the Director, Office of Regulations and Rulings, Headquarters, U.S. Customs Service, in response to a written request submitted under the provisions of this subpart that interprets and applies the provisions of law and regulation relating to the country of origin to a specific set of facts. A final determination may be issued to a party-at-interest prior to actual entry of the merchandise.

(d) *Party-at-interest.* For purposes of this subpart the term party-at-interest means—

(1) A foreign manufacturer, producer, or exporter, or a United States importer of merchandise which is the subject of a final determination under this subpart,

(2) A manufacturer, producer, or wholesaler in the United States of a like product,

(3) United States members of a labor organization or other association of workers whose members are employed in the manufacture, production, or wholesale in the United States of a like product, and

(4) A trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States.

§ 177.23 Who may request a country-of-origin advisory ruling or final determination.

A country-of-origin advisory ruling or final determination may be requested by:

(a) A foreign manufacturer, producer, or exporter, or a United States importer of merchandise,

(b) A manufacturer, producer, or wholesaler in the United States of a like product,

(c) United States members of a labor organization or other association of workers whose members are employed in the manufacture, production, or wholesale in the United States of a like product, or

(d) A trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States.

§ 177.24 By whom request is filed.

A request may be filed by an individual or organization listed in § 177.23 or by a duly authorized attorney or agent on behalf of the individual or organization. A request filed by a corporation shall be signed by a corporate officer, and a request filed by a partnership shall be signed by a partner.

§ 177.25 Form and content of request.

(a) A request for an advisory ruling shall be in writing and shall contain such information as will enable Customs to provide the requester with the applicable principle of law or well established interpretation relating to the particular country of origin.

(b) A request for a final determination shall be in writing and shall contain the following information:

(1) The name of the requester, the requester's principal place of business, and a statement that the requester is authorized to file the request under the provisions of § 177.24;

(2) A description of the existing article for which a country-of-origin determination is requested;

(3) The country or instrumentality an article is claimed to be the product of;

(4) Such further information as will enable Customs to determine if an article is a product of a specific country or instrumentality, and;

(5) If applicable, the specific procurement for which the final determination is requested.

§ 177.26 Where request filed.

The request shall be filed with the Director, Office of Regulations and Rulings, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

§ 177.27 Oral discussion of issues.

Any party authorized to request a ruling under the provisions of § 177.23 may request an opportunity for oral discussion of the issues presented in the request. The oral discussion of issues will be governed by the provisions of § 177.4.

§ 177.28 Issuance of advisory rulings and final determinations.

(a) Pursuant to a request for an advisory ruling which meets the requirements of this subpart, Customs will promptly issue an advisory ruling.

(b) Pursuant to a request for a final determination which meets the requirements of this subpart, Customs will promptly issue a final determination. If the request does not meet the requirements of this subpart Customs may decline to issue a final determination or may issue instead an advisory ruling.

(c) Requests for final determinations which include the information set forth in § 177.25(b)(5) (relating to a specific procurement) will be considered by Customs before all other requests (advisory rulings and final determinations).

§ 177.29 Publication of notice of final determinations.

Notice of all final determinations shall be published in the Federal Register within 60 days of the date the final determination is issued.

§ 177.30 Review of final determinations.

Any part-at-interest listed in § 177.22(d) may seek judicial review of a final determination within 30 days after publication of such determination in the Federal Register, and may seek judicial review of a refusal to issue a final determination within 30 days after such refusal. The Court of International Trade shall have exclusive jurisdiction to review a final determination or a refusal to issue a final determination made under this subpart.

§ 177.31 Reexamination of final determinations.

A party-at-interest, other than the party-at-interest which requested and received the initial final determination, may ask Customs to consider the matter anew and issue, on an expedited basis, a new final determination. Such a request shall specifically identify the previous final determination. Upon receipt of such a request, Customs will issue a new final determination within five working days of receipt of the request unless (a) the previous final determination was the subject of a contested lawsuit timely filed in the Court of International Trade under 28 U.S.C. 1581 (e) or, (b) the merchandise at issue in the initial final determination was tendered and deemed responsive to the request for proposals or an invitation for bids in a competitive procurement subject to the Buy American Act (41 U.S.C. 10a *et seq.*) and a contract under such procurement was let. Any new final determination issued under this section shall be published in accordance with § 177.29 and is reviewable under § 177.30.

(19 CFR Part 24)

(T.D. 83-14)

CUSTOMS REGULATIONS AMENDMENTS RELATING TO DUE DATE OF CUSTOMS BILLS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Customs Regulations presently provide that a bill for duties, taxes, or other charges owed to the Customs Service is payable upon receipt by the debtor. However, the United States Court of Customs and Patent Appeals recently affirmed a lower court decision holding, in effect, that payment of additional Customs duties are no longer due upon receipt of the bill, but can be delayed until certain administrative remedies have expired. Accordingly, it is necessary to amend the Customs Regulations in light of this holding.

EFFECTIVE DATE: January 11, 1983.

FOR FURTHER INFORMATION CONTACT: Robert B. Hamilton, Accounting Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-2596).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Part 24, Customs Regulations (19 CFR Part 24), contains the Customs financial and accounting procedures. Specifically, section 24.3(e), Customs Regulations, (19 CFR 24.3(e)), states that a bill for duties, taxes, or other charges is due and payable upon receipt thereof by the debtor.

However, the United States Court of International Trade in *Heraeus-Amersil, Inc.*, v. *United States*, 2 CIT 249, 515 F. Supp. 770 (1981), held that any liquidated duties, charges, or exactions are not due and payable at liquidation, but rather at the time of the filing of the action or at the expiration of the statute of limitations if no action is filed. The United States Court of Customs and Patent Appeals affirmed this decision in *United States* v. *Heraeus-Amersil, Inc.*, Appeal No. 81-19 (February 18, 1982). Therefore, it is necessary to amend section 24.3(e) in light of this holding to provide that bills for supplemental duty shall be due upon the expiration of the protest period when no protest is filed, or 180 days after the denial of a protest.

INAPPLICABILITY OF PUBLIC NOTICE AND DELAYED EFFECTIVE DATE REQUIREMENTS

Because this is a technical amendment required to be made in light of the holding of a court, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are impracticable, unnecessary, and contrary to public interest. Further, for the same reasons, good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d)(3).

REGULATORY FLEXIBILITY ACT

This document is not subject to the provisions of sections 603 and 604 of Title 5, United States Code, as added by section 3 of Pub. L. 96-354, the "Regulatory Flexibility Act." That Act does not apply to any regulation such as this for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), or any other statute.

EXECUTIVE ORDER 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

DRAFTING INFORMATION

The principal author of this document was Charles D. Ressin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

FEDERAL REGISTER THESAURUS

On January 22, 1981, the Office of the Federal Register published a final rule (47 FR 7162) which requires agencies to identify major topics and categories of persons affected in their regulations by using standard terms established in the Federal Register Thesaurus of Indexing Terms.

Accordingly, the index term listed below is applicable to this regulatory project:

19 CFR Part 24

Accounting

AMENDMENTS TO THE REGULATIONS

Parts 24, Customs Regulations (19 CFR Part 24), is amended as set forth below:

WILLIAM VON RAAB,
Commissioner of Customs.

Approved: December 20, 1982.

JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury

[Published in the Federal Register, January 11, 1983 (48 FR 1186)]

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURES

Section 24.3(e) Customs Regulations (19 CFR 24.3(e)), is revised to read as follows:

§ 24.3 Bills and accounts; receipts.

* * * * * * *

(e) A bill for duties, taxes, or other charges is due and payable upon receipt thereof by the debtor, except for a bill for supplemental duties which shall be due upon the expiration of the protest period when no protest is filed, or 180 days after the denial of the protest.

(R.S. 251 as amended, R.S. 3009, 3473, section 1, 36 Stat. 965, as amended, section 648, 48 Stat. 762, as amended (19 U.S.C. 66, 197, 198, 1648))

(T.D. 83-15)

Synopses of Drawback Decisions

The following are synopses of drawback rates issued June 8, 1982, to July 21, 1982, inclusive, pursuant to sections 22.1 through 22.5, inclusive, Customs Regulations; and approvals under section 22.6, Customs Regulations.

In the synopses below are listed for each drawback rate approved under 19 U.S.C. 1313(b), the name of the company, the specified articles on which drawback is authorized, the merchandise which will be used to manufacture or produce these articles, the factories where the work will be accomplished, the date the statement was signed, the basis for determining payment, the Regional Commissioner to whom the rate was forwarded or issued by, and the date on which it was forwarded or issued.

Dated: January 5, 1983.
File: 215476 (DRA-1-09)

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

(A) Company: Allied Media Technology
Articles: Magnetic recording tape and discs
Merchandise: Magnetic grade polyester film on a gauge for gauge basis and cobalt modified ferrite (iron oxide)
Factory: Sunnyvale, CA
Statement signed: January 26, 1982

Basis of claim: Used in
Rate forwarded to RC of Customs: San Francisco, July 13, 1982

(B) Company: Anitec Image Corp.
Articles: Unexposed, sensitized photographic film
Merchandise: Silver nitrate
Factory: Binghamton, NY
Statement signed: February 23, 1982
Basis of claim: Appearing in
Rate forwarded to RC of Customs: New York, June 17, 1982
Revokes: T.D. 82-11-I (GAF Corp.)

(C) Company: Banbury Wool Co.
Articles: Sorted greasy wool
Merchandise: Greasy wool
Factory: Danville, OH
Statement signed: June 1, 1982
Basis of claim: Used in, with distribution to the products obtained, in accordance with their relative value at the time of separation
Rate forwarded to RC of Customs: Boston, July 2, 1982

(D) Company: Boler Investments Inc., Burton Spring Div.
Articles: Automotive, truck, industrial, agricultural, and other motor vehicle leaf springs (semi-elliptic) and parts thereof
Merchandise: Hot rolled alloy steel bar
Factory: Chicago, IL
Statement signed: October 26, 1981
Basis of claim: Appearing in
Rate issued by RC of Customs in accordance with section 22.4(o)(2): New York, June 16, 1982
Revokes: T.D. 80-62-D to cover successorship of Burton Auto Spring Corporation by Boler Investments Inc.

(E) Company: Campbell Soup Co.
Articles: Canned soup and other canned products; frozen convenience foods; juices and other food products
Merchandise: Tomato paste
Factories: Various factories as listed in manufacturer's statement
Statement signed: June 16, 1982
Basis of claim: Appearing in
Rate forwarded to RC of Customs: Baltimore, July 15, 1982
Revokes: T.D. 66-276-D

(F) Company: Chevron Chemical Co.
Articles: Lubricating oil additives
Merchandise: Overbased calcium sulfonate
Factory: Belle Chasse, LA
Statement signed: March 2, 1982
Basis of claim: Appearing in

Rate forwarded to RC of Customs: New Orleans, June 29, 1982
Revokes: T.D. 79-155-D

(G) Company: Crystal Chemical Co.
Articles: Dichloropropionanilide (propanil)—6 formulations
Merchandise: 3,4-dichloroaniline
Factory: Houston, TX
Statement signed: June 21, 1982
Basis of claim: Used in
Rate forwarded to RC of Customs: Houston, July 7, 1982
Revokes: T.D. 77-192-G

(H) Company: E. I. du Pont de Nemours and Co.
Articles: Watchung red pigments
Merchandise: Beta oxynaphthoic acid (2-hydroxy-3-naphthoic acid); red 2B acid (2-chloro-4-amino-toluene-5-sulfonic acid)
Factory: Newark, NJ
Statement signed: April 26, 1982
Basis of claim: Used in
Rate forwarded to RC of Customs: Baltimore, June 8, 1982

(I) Company: General Electric Co., Metallurgical Business Div.
Articles: Tungsten carbide powder; tantalum carbide powder; tungsten titanium carbide powder; cemented tungsten carbide; various tools, dies, etc., manufactured from powders
Merchandise: Metallic tungsten powder, grain, lump; tantalum oxide powder, grain, lump; tantalum carbide powders, grain, lump; tungsten titanium carbide in powder, grain, lump
Factories: Cleveland, Worthington, and Warrensville Heights, OH; Warren, MI; Houston, TX; Chatsworth, CA; Lenoir, TN; Rolling Meadows, IL
Statement signed: April 8, 1982
Basis of claim: Appearing in
Rate forwarded to RCs of Customs: New York, Chicago, June 8, 1982
Revokes: T.D. 50287-B as amended by T.D.s 53240-B, 54464-B, 55550-E, and 68-185-S

(J) Company: Hoffmann-La Roche Inc.
Articles: Dextrotartrate
Merchandise: p-methoxyphenylacetic acid (PMPA)
Factory: Nutley, NJ
Statement signed: April 27, 1982
Basis of claim: Used in
Rate forwarded to RC of Customs: New York, July 15, 1982

(K) Company: K-2 Corp.
Articles: Snow skis

Merchandise: L-shaped roll-formed steel in coils; p-tex plastic sheeting
Factory: Vashon Island, WA
Statement signed: January 18, 1982
Basis of claim: Appearing in
Rate forwarded to RC of Customs: San Francisco, June 18, 1982

(L) Company: Keysor Corp., a subsidiary of Keysor-Century Corp.
Articles: Phonograph record compound; high and low molecular weight vinyl resin
Merchandise: Vinyl chloride monomer
Factory: Saugus, CA; Delaware City, DE
Statement signed: April 30, 1982
Basis of claim: Appearing in
Rate forwarded to RC of Customs: Los Angeles, July 6, 1982

(M) Company: Lykes Pasco Packing Co.
Articles: Orange juice from concentrate and frozen concentrated orange juice
Merchandise: Concentrated orange juice for manufacturing
Factory: Dade City, FL
Statement signed: March 18, 1982
Basis of claim: Used in
Rate forwarded to RC of Customs: Miami, June 11, 1982
Revokes: T.D. 49979-L as amended by 50009-F and 50215-C; and T.D. 51680-E as amended by 51865-A, 52949-C, 55616-P, 56318-I, and 69-144-E

(N) Company: Menasha Corp.
Articles: Ultra high molecular weight high density polyethylene sheet, block, rod and shapes
Merchandise: Ultra high molecular weight high density polyethylene
Factories: Scranton, PA (2)
Statement signed: April 15, 1982
Basis of claim: Appearing in
Rate forwarded to RC of Customs: New York, June 18, 1982
Revokes: T.D. 80-245-U (Scranton Plastics Laminating, Inc.)

(O) Company: Merck & Co., Inc.
Articles: Cuprimine capsules
Merchandise: Penicillamine USP for manufacturing
Factory: West Point, PA
Statement signed: June 8, 1982
Basis of claim: Used in
Rate forwarded to RC of Customs: New York, July 14, 1982

(P) Company: National Advanced Systems Corp.
Articles: Computers, memory boards, add-on memories

Merchandise: Integrated circuit MOS dynamic RAMs (4K, 16K, and 64K)
Factory: San Diego, CA
Statement signed: May 6, 1982
Basis of claim: Appearing in
Rate forwarded to RC of Customs: San Francisco, July 2, 1982

(Q) Company: Rohm and Haas Texas Inc.
Articles: Butyl acrylates, inhibited butyl methacrylate, and oil additives
Merchandise: n-butyl alcohol
Factory: Deer Park, TX
Statement signed: February 19, 1982
Basis of claim: Used in
Rate forwarded to RC of Customs: Baltimore, June 11, 1982
Revokes: T.D. 79-213-R

(R) Company: Rohm and Haas Texas Inc.
Articles: Inhibited butyl methacrylate, inhibited isobutyl methacrylate, inhibited ethyl methacrylate, and higher methacrylates such as lauryl methacrylate, stearyl methacrylate, cetyl methacrylate and dodecyl pentadecyl methacrylates, inhibited methyl methacrylates, inhibited methacrylic acid, inhibited glacial methacrylic acid, oil additives, and acetone cyanohydrin
Merchandise: Acetone
Factory: Deer Park, TX
Statement signed: February 19, 1982
Basis of claim: Used in
Rate forwarded to RC of Customs: Baltimore, June 11, 1982
Revokes: T.D. 79-213-P

(S) Company: Rohm and Haas Texas Inc.
Articles: Oil additives, inhibited methyl acrylates, and inhibited methyl methacrylates
Merchandise: Methyl alcohol
Factory: Deer Park, TX
Statement signed: February 19, 1982
Basis of claim: Used in
Rate forwarded to RC of Customs: Baltimore, June 16, 1982
Revokes: T.D. 79-213-S

(T) Company: Rohm and Haas Texas Inc.
Articles: Oil additives
Merchandise: Isobutyl methacrylate
Factory: Deer Park, TX
Statement signed: February 19, 1982
Basis of claim: Used in
Rate forwarded to RC of Customs: Baltimore, June 16, 1982
Revokes: T.D. 81-53-X

(U) Company: Storage Technology Corp.
Articles: Computer tape and disk drives and controller, communication machines, add-on computer memory systems, and spare parts (motors, read/write heads, cables, printed circuit boards, etc.) for foregoing machines
Merchandise: Computer parts
Factories: Louisville and Broomfield, CO (3)
Statement signed: March 16, 1982
Basis of claim: Appearing in
Rate forwarded to RC of Customs: Houston, June 22, 1982

(V) Company: Teledyne Industries, Inc., Teledyne Wah Chang Albany Div.
Articles: Hafnium sponge, crystal bar, ingot, mill products, powder products, and compounds
Merchandise: Hafnium oxide
Factory: Albany, OR
Statement signed: April 30, 1982
Basis of claim: Appearing in
Rate forwarded to RC of Customs: San Francisco, July 7, 1982

(W) Company: Thorpe & Ricks, Inc.
Articles: Flue-cured scrap (strip) and burley scrap (strip) tobaccos; flue-cured stems and burley stems
Merchandise: Unstemmed flue-cured leaf tobacco; unstemmed burley leaf tobacco
Factories: Rocky Mount and Farmville, NC (operating under T.D.s 55027(2) and 55207(1))
Statement signed: June 18, 1982
Basis of claim: Used in, with distribution to the products obtained, in accordance with their relative value at the time of separation
Rate forwarded to RC of Customs: Miami, July 2, 1982

(X) Company: Thorpe-Greenville Export Tobacco Co.
Articles: Flue-cured scrap (strip) and burley scrap (strip) tobaccos; flue-cured stems and burley stems
Merchandise: Unstemmed flue-cured leaf tobacco; unstemmed burley leaf tobacco
Factory: Rocky Mount, NC
Statement signed: June 18, 1982
Basis of claim: Used in, with distribution to the products obtained, in accordance with their relative value at the time of separation
Rate forwarded to RC of Customs: Miami, July 2, 1982

(Y) Company: Warner-Lambert Co., Schick Div.
Articles: Razor blades and razors
Merchandise: Low carbon stainless steel
Factory: Milford, CT
Statement signed: January 15, 1982

Basis of claim: Used in, less valuable waste
Rate forwarded to RC of Customs: New York, June 21, 1982

(Z) Company: Wyman-Gordon Co.
Articles: Titanium alloy rough forgings
Merchandise: Titanium alloy billets
Factories: Worcester, Millbury, and North Grafton, MA
Statement signed: June 17, 1982
Basis of claim: Used in, less valuable waste
Rate forwarded to RC of Customs: New York, July 21, 1982

Approvals Under Section 22.6, Customs Regulations

(1) Company: Amoco Oil Co. (Maryland)
Articles: Petroleum products
Merchandise: Crude petroleum and petroleum derivatives
Factories: Casper, WY; Sugar Creek, MO; EL Dorado, AR; Whiting, IN; Yorktown, VA; Texas City, TX
Statement signed: March 31, 1982
Basis of claim: As provided in section 22.6(g-1), Customs Regulations
Rate forwarded to RCs of Customs: Chicago, Houston, May 12, 1982
Revokes: T.D. 81-222-B

(2) Company: Pacific Refining Co.
Articles: Residual oils
Merchandise: Crude petroleum; topped crude oil; fuel oil; naphthas; distillates
Factory: Hercules, CA
Statement signed: July 7, 1982
Basis of claim: As provided in section 22.6(g-1), Customs Regulations
Rate forwarded to RC of Customs: Houston, November 22, 1982

(3) Company: Tosco Corp.
Articles: Motor gasoline, special naphthas, distillate oils, residual oils, liquefied refinery gas, petroleum coke, and other petrochemicals, carbon black feedstock, tetramer
Merchandise: Crude petroleum; liquid derivatives of crude petroleum
Factories: Duncan, OK; Martinez, CA
Statement signed: April 2, 1982
Basis of claim: As provided in section 22.6(g-1), Customs Regulations
Rate forwarded to RC of Customs: San Francisco, June 9, 1982

(T.D. 83-16)

Synopses of Drawback Decisions

The following are synopses of drawback rates issued July 23, 1982, inclusive, pursuant to sections 22.1 through 22.5, inclusive, Customs Regulations.

In the synopses below are listed for each drawback rate approved under 19 U.S.C. 1313(b), the name of the company, the specified articles on which drawback is authorized, the merchandise which will be used to manufacture or produce these articles, the factories where the work will be accomplished, the date the statement was signed, the basis for determining payment, the Regional Commissioner to whom the rate was forwarded, and the date it was forwarded.

Dated: January 11, 1983.
File: DRA-1-09
215484

George C. Steuart
(For Marilyn G. Morrison, Director,
Carriers, Drawback and Bonds Division).

(A) Company: Ampacet Corp.
Articles: Synthetic plastics in pellet form
Merchandise: Polyethylene
Factories: Mount Vernon, NY; DeRidder, LA; Terre Haute, IN
Statement signed: June 2, 1982
Basis of claim: Used in
Rate forwarded to RC of Customs: New York, October 5, 1982

(B) Company: CYRO Industries
Articles: Methyl methacrylate (MMA)
Merchandise: Methanol; acetone
Factory: New Orleans, LA
Statement signed: August 16, 1982
Basis of claim: Appearing in
Rate forwarded to RC of Customs: New York, October 6, 1982

(C) Company: Data General Corp.
Articles: Computer systems; computer subsystems; peripheral computer equipment
Merchandise: Printed circuit boards
Factories: Southboro, MA; Westbrook, ME; Cary and Apex, NC; Portsmouth, NH; Austin, TX
Statement signed: August 12, 1982
Basis of claim: Appearing in
Rate forwarded to RC of Customs: San Francisco, September 30, 1982
Revokes: T.D. 82-39-D

(D) Company: E. I. du Pont de Nemours and Co.
Articles: Various X-ray and graphic arts processing chemicals in concentrated form
Merchandise: Hydroquinone
Factory: Rochester, NY
Statement signed: May 26, 1982
Basis of claim: Appearing in
Rate forwarded to RC of Customs: Baltimore, July 28, 1982

(E) Company: E. I. du Pont de Nemours and Co.
Articles: Various Dalamar pigments
Merchandise: Acetoacet-ortho-anisidine (AAOA); 5-nitro-2-aminoanisole (Fast Red B base)
Factory: Newark NJ
Statement signed: May 18, 1982
Basis of claim: Used in
Rate forwarded to RC of Customs: Baltimore, July 28, 1982

(F) Company: E. I. du Pont de Nemours and Co.
Articles: Dimethyl terephthalate (DMT)
Merchandise: Methanol
Factory: Old Hickory, TN
Statement signed: February 23, 1982
Basis of claim: Appearing in
Rate forwarded to RC of Customs: Baltimore, September 29, 1982

(G) Company: Fairmount Chemical Co., Inc.
Articles: Tobacco growth regulators
Merchandise: 1-Decanol (N-Decyl alcohol: Alcohol C–10); C_8C_{10} Alcohol
Factory: Newark, NJ
Statement signed: March 18, 1982
Basis of claim: Appearing in
Rate forwarded to RC of Customs: New York, September 1, 1982

(H) Company: Fiberglass Resources Corp.
Articles: Fiberglass pipe and fittings
Merchandise: Fiberglass roving
Factory: Farmingdale, NY
Statement signed: July 13, 1982
Basis of claim: Use in
Rate forwarded to RC of Customs: New York, October 14, 1982

(I) Company: The B. F. Goodrich Co.
Articles: Tires, rubber, pneumatic and steel tire cord fabric
Merchandise: Steel tire cord
Factories: Tuscaloosa, AL; Akron, OH; Miami, OK; Oaks, PA; Thomaston, GA; Woodburn, IN
Statement signed: June 24, 1982

Basis of claim: Appearing in
Rate forwarded to RC of Customs: Miami, August 20, 1982
Revokes: T.D. 79-63-M

(J) Company: Gulf Oil Corp
Articles: Intermediate grade fuels
Merchandise: Residual fuel oil
Factories: Galena Park, TX; Pennsauken, NJ; Philadelphia, PA
Statement signed: July 19, 1982
Basis of claim: Used in
Rate forwarded to RC of Customs: Houston, July 29, 1982
Revokes: T.D. 82-86-L

(K) Company: H & B Welding Service, Inc.
Articles: Fabricated structural steel
Merchandise: Structural steel of varying shapes; nuts, bolts, washers, and pipe
Factory: Channelview, TX
Statement signed: August 29, 1982
Basis of claim: Appearing in
Rate forwarded to RC of Customs: Houston, October 6, 1982

(L) Company: Hell Graphic Systems, Inc.
Articles: Laser light device (3033); Scanner (299L); Scanner (299)
Merchandise: Various components
Factory: Hauppauge, NY
Statement signed: June 8, 1982
Basis of claim: Used in
Rate forwarded to RC of Customs: New York, July 23, 1982

(M) Company: LNP Corp., a Div. of Beatrice Foods Co.
Articles: Fluorocomp® line of products, lubricated Thermocomp® line of products and fluorocarbon pellets and powder
Merchandise: PTFE fluorocarbon resin (polytetrafluoroethylene)
Factories: Thorndale, PA; Santa Ana, CA; Columbus, IN
Statement signed: June 9, 1982
Basis of claim: Appearing in
Rate forwarded to RC of Customs: New York, September 29, 1982

(N) Company: Litton Fastening Systems, a Division of Litton Systems, Inc.
Articles: Titanium aircraft fasteners
Merchandise: Cold ground titanium round wire and bar stock
Factory: Lakewood, CA
Statement signed: April 2, 1982
Basis of claim: Used in, less valuable waste
Rate forwarded to RC of Customs: Los Angeles, September 29, 1982

(O) Company: The Lubrizol Corp.

Articles: Various lubricant intermediates and additives
Merchandise: Methyl amyl alcohol
Factories: Painesville, OH; Deer Park and Pasedena, TX
Statement signed: May 14, 1982
Basis of claim: Used in
Rate forwarded to RC of Customs: Chicago, October 1, 1982

(P) Company: Malden Mills, Inc.
Articles: Piece goods such as but not limited to griege knitted, woven or flocked; dyed and/or printed knitted, woven or flocked
Merchandise: Acrylic yarn, dyed and undyed; acrylic staple fiber, natural and dyed; acrylic tow, dyed and undyed; nylon tow, dyed and undyed
Factories: Lawrence, MA; Hudson, NH; Barre, VT; Bridgeton and No. Berwick, ME
Statement signed: January 27, 1982
Basis of claim: Used in, less valuable waste for sliver knitted fabric; appearing in for remaining fabric
Rate forwarded to RC of Customs: New York, September 28, 1982

(Q) Company: Merck & Co., Inc.
Articles: Cefoxitin acid hydrate pure; sodium cefoxitin sterile (Mefoxin®)
Merchandise: Aminoacetic acid; 1, 3-diaminopropane; dimethylform- amide; ethyl acetate; paratoluenesulfonylchloride; thienyl acetyl chloride (TAC); L-lysine monohydrochloride feed grade
Factories: Danville, PA; Elkton, VA; Albany, GA
Statement signed: August 27, 1982
Basis of claim: Used in
Rate forwarded to RC of Customs: New York, October 27, 1982
Revokes: T.D. 81-180-Q

(R) Company: Monsanto Co.
Articles: Glyphosate Intermediate; Glyphosate Technical; Isopropylamine salt of N-phosphonomethylglycine, and Roundup herbicide
Merchandise: Iminodiacetic acid
Factories: Luling, LA; Fayetteville, NC
Statement signed: June 18, 1982
Basis of claim: Appearing in
Rate forwarded to RCs of Customs: Chicago and New York, August 11, 1982

(S) Company: Emery Industries, Division of National Distillers and Chemical Corp.
Articles: 1133 and 1144 Purified grades of Azelaic acid
Merchandise: 1110 Technical grade Azelaic acid
Factory: Cincinnati, OH
Statement signed: April 16, 1982

Basis of claim: Used in, with distribution to the products obtained, in accordance with their relative value at the time of separation
Rate forwarded to RC of Customs: Chicago, August 2, 1982

(T) Company: National Semiconductor Corp.
Articles: Finished semiconductor devices
Merchandise: Integrated circuits, transistors, and field effect transistors
Factories: Santa Clara, CA; Tucson, AZ
Statement signed: August 23, 1982
Basis of claim: Appearing in
Rate forwarded to RC of Customs: San Francisco, September 14, 1982
Revokes: T.D. 79-84-Q

(U) Company: Pacific Food Products, Inc.
Articles: Peanut butter
Merchandise: Peanuts
Factory: Seattle, WA
Statement signed: January 13, 1982
Basis of claim: Appearing in
Rate forwarded to RC of Customs: San Francisco, August 19, 1982

(V) Company: Rohm and Haas Texas Inc.
Articles: Oil additives (pour point depressants)
Merchandise: C-16 C-18 alcohol (ALFOL)
Factory: Deer Park, TX
Statement signed: March 8, 1982
Basis of claim: Used in
Rate forwarded to RC of Customs: Baltimore, September 1, 1982
Revokes: T.D. 81-78-V

(W) Company: Rohm and Haas Texas, Inc.
Articles: Higher methacrylates, oil additives (poor point depressants), and oil additives (VI improvers)
Merchandise: C-16 C-20 alcohol (ALFOL)
Factory: Deer Park, TX
Statement signed: March 8, 1982
Basis of claim: Used in
Rate forwarded to RC of Customs: Baltimore, September 1, 1982
Revokes: T.D. 81-53-W

(X) Company: Shell Chemical Co., Div. of Shell Oil Co.
Articles: Blazine® 80% wettable powder herbicide (Blazine 80% W.P.)
Merchandise: Technical Bladex
Factory: El Paso, IL
Statement signed: March 29, 1982
Basis of claim: Used in

Rate forwarded to RC of Customs: Houston, July 23, 1982

(Y) Company: Sterling Drug Inc.
Articles: Nalidixic acid
Merchandise: Diethyl malonate and Trimethyl ortho formate
Factory: Rensselaer, NY
Statement signed: March 3, 1982
Basis of claim: Used in
Rate forwarded to RC of Customs: New York, July 27, 1982

(Z) Company: Vulcan Materials Co.
Articles: Methylene chloride; chloroform; and carbon tetrachloride
Merchandise: Methanol
Factories: Wichita, KS; Geismar, LA
Statement signed: March 26, 1982
Basis of claim: Used in, with distribution to the products obtained in accordance with their relative value at the time of separation
Rate forwarded to RC of Customs: New Orleans, August 6, 1982

(19 CFR Part 4)

(T.D. 83-17)

Vessels in Foreign and Domestic Trades

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs regulations to add the People's Republic of China to the list of nations which permit vessels of the United States to transport certain articles specified in section 27, Merchant Marine Act of 1920, as amended, between their ports.

The Department of State has furnished satisfactory evidence that the People's Republic of China places no restrictions on the transportation of certain specified articles by vessels of the United States between ports in that country. This amendment provides reciprocal privileges for vessels registered in the People's Republic of China.

EFFECTIVE DATE: October 27, 1982.

FOR FURTHER INFORMATION CONTACT: Jerry Laderberg, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 27, Merchant Marine Act of 1920, as amended (46 U.S.C. 883) (the "Act"), provides generally that no merchandise shall be transported by water, or by land and water, between points in the United States except in vessels built in and documented under the laws of the United States and owned by U.S. citizens. However, the Act, as amended by Pub. L. 90-474 (82 Stat. 700; T.D. 68-227), provides that upon a finding by the Secretary of the Treasury, pursuant to information obtained and furnished by the Secretary of State that a foreign nation does not restrict the transportation of certain articles between its ports by vessels of the United States, reciprocal privileges will be accorded to vessels of that nation, and the prohibition against the transportation of those articles between points in the United States will not apply to its vessels.

Section 4.93(b)(1), Customs Regulations (19 CFR 4.93(b)(1)), lists those nations found to extend reciprocal privileges to vessels of the United States for the transportation of empty cargo vans, empty lift vans, and empty shipping tanks. Section 4.93(b)(2), Customs Regulations (19 CFR 4.93(b)(2)), lists those nations found to grant reciprocal privileges to vessels of the United States for the transportation of equipment for use with cargo vans, lift vans, or shipping tanks; empty barges specifically designed for carriage aboard a vessel and certain equipment for use with these barges; certain empty instruments of international traffic; and certain stevedoring equipment and material.

On October 27, 1982, the Department of State advised the Secretary of the Treasury that the People's Republic of China places no restrictions on the transportation of empty cargo vans, empty lift vans, and empty shipping tanks by vessels of the United States between ports in the People's Republic of China.

By Treasury Department Order 165-25 the Secretary of the Treasury has delegated authority to the Commissioner of Customs to prescribe regulations relating to sections 4.22, 4.81a(b), 4.93 (b)(1) and (b)(2), 4.94(b), and 10.59(f), Customs Regulations (19 CFR 4.22, 4.81a(b), 4.93 (b)(1) and (b)(2), 4.94(b), and 10.59(f)). These section relate to lists of nations entitled to preferential treatment in Customs matters because of reciprocal privileges accorded to vessels and aircraft of the United States. Subsequently, by Customs Delegation Order No. 66 (T.D. 82-201), dated October 13, 1982, the Commissioner delegated this authority to the Assistant Commissioner (Commercial Operations). Authority to grant this exemption and to amend these sections was delegated from the Assistant Commissioner (Commercial Operations), to the Director, Office of Regulations and Rulings, who then re-delegated this authority to the Director, Regulations Control and Disclosure Law Division.

FINDING

On the basis of the information received from the Secretary of State, as described above, it is determined that the Government of the People's Republic of China places no restrictions on the transportation of certain articles specified in section 27 of the Merchant

Marine Act of 1920, as amended, by vessels of the United States between ports in the People's Republic of China. Therefore, reciprocal privileges are accorded to vessels registered in the People's Republic of China as of October 27, 1982.

Thus, section 4.93(b)(1) is being amended to add the People's Republic of China to the list of countries contained therein. In accordance with a request from the Department of State, Taiwan Desk, by T.D. 82-91, published in the Federal Register on May 14, 1982 (47 FR 20752), section 10.59(f), Customs Regulations, was amended by designating the People's Republic of China as "China" and the existing designation for the "Republic of China" was changed to "Taiwan." In view of this request and to maintain consistency, the designation for the People's Republic of China in section 4.93(b)(1) will appear as "China" and the existing designation for the Republic of China will be changed to "Taiwan." Also, the listing of "China" is being asterisked, with a footnote referring the reader to the "Taiwan" listing. Similarly, sections 4.22 and 4.93(b)(2) are being amended to reflect these designations and the listing asterisked, with the footnote reference.

REGULATIONS AMENDMENTS

To reflect the reciprocal privileges granted to vessels of the People's Republic of China and for the other reasons noted above, Part 4, Customs Regulations (19 CFR Part 4), is amended in the following manner:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. Section 4.22 is amended as follows:

a. By removing "China, Republic of" and inserting in its place "China."

b. By removing "People's Republic of China."

c. By adding "Taiwan" in appropriate alphabetical order.

d. By adding "*See also Taiwan" two spaces below "Zaire."

2. Section 4.93(b)(1) is amended as follows:

a. By adding "China*" in appropriate alphabetical order.

b. By removing "Republic of China."

c. By adding "Taiwan" in appropriate alphabetical order.

d. By adding "*See also Taiwan" two spaces below "Yugoslavia, Socialist Federal Republic of."

3. Section 4.93(b)(2) is amended as follows:

a. By removing "Republic of China."

b. By adding "Taiwan" in appropriate alphabetical order.

(R.S. 251, as amended, 4219, as amended, 4228, as amended, 4255, as amended, sec. 3.23 Stat. 119, as amended, sec. 27, 41 Stat. 999, as amended, sec. 624, 46 Stat. 759, sec. 14, 67 Stat. 516, Pub. L. 90–474, 82 Stat. 700 (5 U.S.C. 301, 19 U.S.C. 66, 1322(a), 1624, 46 U.S.C. 5, 121, 126, 141, 883))

INAPPLICABILITY OF PUBLIC NOTICE AND DELAYED EFFECTIVE DATE REQUIREMENTS

Because these are minor amendments in which the public is not particularly interested and there is a statutory basis for the described extension of reciprocal privileges, notice and public procedure pursuant to 5 U.S.C. 553(b)(B) are unnecessary. In accordance with 5 U.S.C. 553(d)(1), a delayed effective date is not required because these amendments grant an exemption.

INAPPLICABILITY OF REGULATORY FLEXIBILITY ACT

This document is not subject to the provisions of sections 603 and 604 of title 5, United States Code, as added by section 3 of Pub. L. 96–354, the "Regulatory Flexibility Act." That Act does not apply to any regulations such as these for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) or any other statute.

EXECUTIVE ORDER 12291

These amendments do not meet the criteria for a major regulation as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

DRAFTING INFORMATION

The principal author of this document was James S. Demb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices of the Customs Service and the Departments of State and the Treasury participated in its development.

Dated: January 12, 1983.

B. JAMES FRITZ,
Director, Regulations Control
and Disclosure Law Division.

[Published in the Federal Register, January 18, 1983 (48 FR 2119)]

(T.D. 83–18)

Bonds

Approval and discontinuance of consolidated aircraft bonds (air carrier blanket bonds), Customs Form 7605

The following consolidated aircraft bonds have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: January 13, 1983.

Name of principal and surety	Date term commences	Date of approval	Filed with district director/area director/amount
Empire Airlines, Inc., Oneida County Airport, Utica-Rome, NY; Utica Mutual Ins. Co. The foregoing principal has been designated as a carrier of bonded merchandise.	Oct. 21, 1982	Nov. 23, 1982	Buffalo; NY $100,000
Sedalia, Marshall, Boonville, Stage Line, Inc., and SMB Stage Line, Inc., 1060 East N.W. Hwy., Grapevine, TX, P.O. Box 61034, DFW Airport, TX; U.S. Fire Ins. Co. (PB 8/20/81) D 11/23/82 [1] The foregoing principal has been designated as a carrier of bonded merchandise.	July 26, 1982	Nov. 24, 1982	Dallas/Fort Worth, TX $100,000

[1] Principal is Sedalia-Marshall-Boonville Stage Lines, Inc.; Surety is Employers Mutual Casualty Co.

BON-3-01

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-19)

Quarterly Rates of Exchange

The table below lists rates of exchange, in United States dollars for certain foreign currencies, which are based upon rates certified to the Secretary of the Treasury by the Federal Reserve of New York under provisions of section 522(c) Tariff Act of 1930, as amended (31 USC 372(c)), for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C):

Quarterly beginning: January 1, 1983 through March 31, 1983.

County	Name of currency	U.S. dollars
Australia	Dollar	.98400
Austria	Schilling	.059844
Belgium	Franc	.021432
Brazil	Cruzeiro	.003958
Canada	Dollar	.813008
China, P.R.	Renminbi Yuan	.518807
Denmark	Krone	.119546
Finland	Markka	.189322
France	Franc	.148677
Germany	Deutsche Mark	.421230
Hong Kong	Dollar	.154083
India	Rupee	.103950
Iran	Rial	N/A
Ireland	Pound	1.3940
Italy	Lira	.000729
Japan	Yen	.004310
Malaysia	Dollar	.433276
Mexico	Peso	.006289
Netherlands	Guilder	.381170
New Zealand	Dollar	.7335
Norway	Krone	.142126
Philippines	Peso	.109963
Portgual	Escudo	.010989
Republic of So. Africa	Rand	.93100
Singapore	Dollar	.475511
Spain	Peseta	.007962
Sri-Lanka	Rupee	.047259
Sweden	Krona	.137278
Switzerland	Franc	.501505
Thailand	Baht (Tical)	.043478
United Kingdom	Pound	1.6235
Venezuela	Bolivar	.232721

(LIQ-03-01 O:C:E)

Dated: January 3, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-20)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
December 1-2, 1982	$0.000026
December 3, 1982	.000023
Chile peso:	
December 1-2, 1982	.014261
December 3, 1982	.013514
Colombia peso:	
December 1-2, 1982	.014556
December 3, 1982	.014451
Greece drachma:	
December 1, 1982	.014158
December 2, 1982	.014055
December 3, 1982	.014225
Indonesia rupiah:	
December 1, 1982	.001463
December 2, 1982	.001463
December 3, 1982	.001458
Israel shekel:	
December 1, 1982	.031596
December 2-3, 1982	.030883
Peru sol:	
December 1-2, 1982	.001109
December 3, 1982	.001093
South Korea won:	
December 1-3, 1982	.001341

(LIQ-03-01 O:C:E)

Dated: December 3, 1982.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-21)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
December 6–10, 1982	$0.000023
Chile peso:	
December 6–9, 1982	.013514
December 10, 1982	.013841
Colombia peso:	
December 6–9, 1982	.014451
December 10, 1982	.014428
Greece drachma:	
December 6, 1982	.014245
December 7, 1982	.014316
December 8, 1982	.014164
December 9, 1982	.014055
December 10, 1982	.014065
Indonesia rupiah:	
December 6–9, 1982	.001458
December 10, 1982	.001457
Israel shekel:	
December 6, 1982	.030836
December 7, 1982	.030647
December 8, 1982	.030656
December 9–10, 1982	.030590
Peru sol:	
December 6–9, 1982	.001341
December 10, 1982	.001074
South Korea won:	
December 6–10, 1982	.001341

(LIQ-03-01 O:C:E)

Dated: December 10, 1982.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-22)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
December 13–17, 1982	$0.000023
Chile peso:	
December 13–17, 1982	.013841
Colombia peso:	
December 13–16, 1982	.014428
December 17, 1982	.014351
Greece drachma:	
December 13, 1982	.013928
December 14, 1982	.014045
December 15, 1982	.014045
December 16–17, 1982	.014134
Indonesia rupiah:	
December 13–16, 1982	.001457
December 17, 1982	.001456
Israel shekel:	
December 13, 1982	.030590
December 14, 1982	.030257
December 15, 1982	.030257
December 16, 1982	.030248
December 17, 1982	.030102
Peru sol:	
December 13–16, 1982	.001074
December 17, 1982	.001060
South Korea won:	
December 13–17, 1982	.001341

(LIQ-03-01 O:C:E)

Dated: December 17, 1982.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-23)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
December 20-24, 1982	$0.000023
Chile peso:	
December 20-24, 1982	.013841
Colombia peso:	
December 20-21, 1982	.014351
December 22-24, 1982	.014312
Greece drachma:	
December 20, 1982	.014134
December 21, 1982	.014114
December 22, 1982	.014134
December 23-24, 1982	.014085
Indonesia rupiah:	
December 20-21, 1982	.001456
December 22-24, 1982	.001449
Israel shekel:	
December 20-21, 1982	.030130
December 22-24, 1982	.030175
Peru sol:	
December 20, 1982	.001060
December 21, 1982	.001059
December 22-24, 1982	.001030
South Korea won:	
December 20, 1982	.001341
December 21-24, 1982	.001339

(LIQ-03-01 O:C:E)

Dated: December 24, 1982.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-24)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
December 27-28, 1982	$0.000023
December 29-31, 1982	.000021
Chile peso:	
December 27-28, 1982	.013841
December 29-31, 1982	.013550
Colombia peso:	
December 27-28, 1982	.014312
December 29-31, 1982	.014235
Greece drachma:	
December 27-28, 1982	.014124
December 29, 1982	.014219
December 30, 1982	.014160
December 31, 1982	.014174
Indonesia rupiah:	
December 27, 1982	.001449
December 28, 1982	.001449
December 29-31, 1982	.001440
Israel shekel:	
December 27, 1982	.030003
December 28, 1982	.029824
December 29, 1982	.029753
December 30, 1982	.029753
December 31, 1982	.029577
Peru sol:	
December 27-28, 1982	.001030
December 29-31, 1982	.001014
South Korea won:	
December 27-30, 1982	.001337
December 31, 1982	.001335

(LIQ-03-01 O:C:E)

Dated: December 31, 1982.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-25)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(C), Tariff Act of 1930, as amended (31 USC 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 82-189 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Brazil cruzeiro:	
December 1-2, 1982	$0.004213
December 3, 1982	.004215
Finland markka:	
December 1, 1982	.185460
December 2, 1982	.185874
December 3, 1982	.187003
Japan yen:	
December 1, 1982	.004023
December 2, 1982	.004031
December 3, 1982	.004055
Mexico peso:	
December 1, 1982	.007576
December 2, 1982	.007813
December 3, 1982	.007407
Rep. So. Africa rand:	
December 1, 1982	.90930
December 2-3, 1982	.91650
Sweden krona:	
December 1, 1982	.135227
December 2, 1982	.136426
December 3, 1982	.136705

(LIQ-03-01 O:C:E)

Dated: December 3, 1982.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-26)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to Section 522(C), Tariff Act of 1930, as amended (31 USC 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 82-189 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Brazil cruzeiro:	
December 6-10, 1982	$0.004213
Finland markka:	
December 6, 1982	.186741
December 7, 1982	.187688
December 8, 1982	.186480
December 9, 1982	.186185
December 10, 1982	.185908
Japan yen:	
December 6, 1982	.004080
December 7, 1982	.004119
December 8, 1982	.004130
December 9, 1982	.004070
December 10, 1982	.004094
Mexico peso:	
December 6-7, 1982	.007407
December 8, 1982	.007143
December 9, 1982	.007042
December 10, 1982	.007353
Portugal escudo:	
December 8, 1982	.010526
December 9, 1982	.010638
Rep. of So. Africa rand:	
December 6, 1982	.91350
December 7, 1982	.91900
December 8, 1982	.92150
December 9-10, 1982	.91750
Spain peseta:	
December 6, 1982	.007862
December 7, 1982	.007880

December 8, 1982	.007806
December 9, 1982	.007776
December 10, 1982	.007751
Sweden krona:	
December 6, 1982	.136054
December 7, 1982	.135547
December 8, 1982	.136193
December 9, 1982	.135044
December 10, 1982	.135318
Switzerland franc:	
December 6, 1982	.483209
December 7, 1982	.485673
December 8, 1982	.484027
United Kingdom pound:	
December 9, 1982	1.6120
December 10, 1982	1.6100

(LIQ-03-01 O:C:E)

Dated: December 10, 1982.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-27)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to Section 522(C), Tariff Act of 1930, as amended (31 USC 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 82-189 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Austria schilling:	
December 17, 1982	$0.059242
Brazil cruzeiro:	
December 13-17, 1982	.004084
Finland markka:	
December 13, 1982	.184775
December 14, 1982	.186047
December 15, 1982	.185770
December 16, 1982	.186846

December 17, 1982	.187459
Japan yen:	
December 13, 1982	.004044
December 14, 1982	.004093
December 15, 1982	.004082
December 16, 1982	.004110
December 17, 1982	.004096
Mexico peso:	
December 13, 1982	.007143
December 14, 1982	.006897
December 15, 1982	.006993
December 16, 1982	.006897
December 17, 1982	.006667
Portugal escudo:	
December 13, 1982	.010417
December 14, 1982	.010204
December 15, 1982	.010363
December 16, 1982	.010582
Rep. of South Africa rand:	
December 13, 1982	.91400
December 14, 1982	.91650
December 15, 1982	.91650
December 16, 1982	.91900
December 17, 1982	.92030
Spain peseta:	
December 13, 1982	.007704
December 14, 1982	.007773
December 15, 1982	.007755
December 16, 1982	.007791
December 17, 1982	.007849
Sweden krona:	
December 13, 1982	.133815
December 14, 1982	.135501
December 15, 1982	.134680
December 16, 1982	.135962
December 17, 1982	.135639
Switzerland franc:	
December 16, 1982	.486618
December 17, 1982	.488043
United Kingdom pound:	
December 13, 1982	1.6070
December 17, 1982	1.6000

(LIQ-03-01 O:C:E)

Dated: December 17, 1982.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-28)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to Section 522(C), Tariff Act of 1930, as amended (31 USC 372 (c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 82-189 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Austria schilling:	
December 24, 1982	$0.059347
Brazil cruzeiro:	
December 20, 1982	.004084
December 21-24, 1982	.004019
Finland markka:	
December 20, 1982	.186986
December 21, 1982	.187512
December 22, 1982	.187793
December 23, 1982	.187864
December 24, 1982	.187617
France franc:	
December 24, 1982	.147493
Germany mark:	
December 22, 1982	.415800
December 23, 1982	.417449
December 24, 1982	.418410
Japan yen:	
December 20, 1982	.004091
December 21, 1982	.004131
December 22, 1982	.004158
December 23-24, 1982	.004200
Mexico peso:	
December 20, 1982	.006897
December 21, 1982	.006536
December 22, 1982	.006536
December 23, 1982	.006211
December 24, 1982	.006098

Portugal escudo:	
December 20, 1982	.010724
Republic of South Africa rand:	
December 20–21, 1982	.92100
December 22–23, 1982	.92350
December 24, 1982	.92370
Spain peseta:	
December 20, 1982	.007819
December 21, 1982	.007853
December 22, 1982	.007872
December 23, 1982	.007874
December 24, 1982	.007883
Sweden krona:	
December 20, 1982	.135639
December 21, 1982	.136054
December 22, 1982	.136054
December 23, 1982	.136286
December 24, 1982	.136426
Switzerland franc:	
December 20, 1982	.491159
December 21, 1982	.494805
December 22, 1982	.495295
December 23, 1982	.497512
December 24, 1982	.499750
United Kingdom pound:	
December 20, 1982	1.6105
December 21, 1982	1.6045
December 22, 1982	1.6070
December 23, 1982	1.5950
December 24, 1982	1.6000

(LIQ-03-01 O:C:E)

Dated: December 24, 1982.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-29)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to Section 522(C), Tariff Act of 1930, as amended (31 USC 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 82-189 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Austria schilling:	
December 27, 1982	$0.059737
December 28, 1982	.060060
December 29, 1982	.059988
December 30, 1982	.059916
December 31, 1982	.059809
Belgium franc:	
December 27, 1982	.021529
December 28, 1982	.021436
Brazil cruzeiro:	
December 27–31, 1982	.003958
Denmark krone:	
December 27, 1982	.119119
December 29, 1982	.119653
December 30, 1982	.118977
December 31, 1982	.119332
Finland markka:	
December 27, 1982	.188377
December 28, 1982	.189215
December 29, 1982	.189394
December 30, 1982	.189286
December 31, 1982	.189036
France franc:	
December 27, 1982	.148203
December 28, 1982	.149031
December 29, 1982	.148699
December 30, 1982	.148423
December 31, 1982	.148368
Germany mark:	
December 27, 1982	.419903
December 28, 1982	.421852
December 29, 1982	.421408
December 30, 1982	.419815
December 31, 1982	.420521
Japan yen:	
December 27, 1982	.004211
December 28, 1982	.004262
December 29, 1982	.004296
December 30, 1982	.004264
December 31, 1982	.004261
Mexico peso:	
December 27, 1982	.006061
December 28, 1982	.006173

December 29–31, 1982	.006250
Netherlands guilder:	
December 28, 1982	.380228
December 29, 1982	.380807
December 31, 1982	.380952
Republic of South Africa rand:	
December 27, 1982	.92350
December 28, 1982	.92900
December 29–30, 1982	.93000
December 31, 1982	.93100
Spain peseta:	
December 27, 1982	.007924
December 28, 1982	.007968
December 29, 1982	.007981
December 30, 1982	.007955
December 31, 1982	.007962
Sweden krona:	
December 27, 1982	.136705
December 28, 1982	.137080
December 29, 1982	.137221
December 30, 1982	.136612
December 31, 1982	.136799
Switzerland franc:	
December 27, 1982	.499750
December 28, 1982	.500250
December 29, 1982	.501253
December 31, 1982	.498132
United Kingdom pound:	
December 27, 1982	1.6050

(LIQ-03-01 O:C:E)

Dated: December 31, 1982.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-30)

Commerce and Treasury Departments Agreement—Entry of Steel Products

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General Notice.

SUMMARY: This document advises the public of an agreement between the U.S. Department of Commerce and the U.S. Department of the Treasury concerning the release into the commerce of the United States of steel products subject to arrangements between the European Communities and the United States.

EFFECTIVE DATE: January 19, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph Spetrini, Acting Director, Agreements Compliance Division, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3793) or Frank Brennan, Director, Duty Assessment Division, U.S. Customs Service, Washington, D.C. 20229 (202-566-8121).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On October 21, 1982, the United States Government concluded two Arrangements with the European Communities (EC) restricting exports of certain steel products and steel pipes and tubes to the United States. These Arrangements, which will be in effect from November 1, 1982 through December 31, 1985, were published as an appendix to a notice published by the International Trade Administration, U.S. Department of Commerce, in the Federal Register on October 29, 1982 (47 FR 49058), relating to the termination of countervailing duty and antidumping investigations of steel imports from the EC. One of the Arrangements involves the immediate restraint by the EC of exports of certain steel products to the United States through a system of export licenses. The United States Government has agreed to require presentation to the U.S. Customs Service of a properly executed EC export certificate, issued by EC member state customs officials against an export license, as an absolute condition for making entry of steel products covered by the Arrangement. Under this Arrangement and a separate Arrangement on EC exports of steel pipes and tubes, requirement by the U.S. Customs Service of presentation of a valid export certificate or other documents issued by the EC or their member states for additional steel mill products may become necessary as a condition of entry.

The procedure set forth in the Agreement was formulated to ensure that the Arrangements were effectively administered while at the same time not unnecessarily delaying imports of steel from the EC.

The text of the Agreement is set forth below.

Dated: January 14, 1983.

JOHN P. SIMPSON,
Director, Office of
Regulations and Rulings.

[Published in the Federal Register, January 19, 1983 (48 FR 2488)]

MEMORANDUM OF AGREEMENT BETWEEN THE U.S. DEPARTMENT OF COMMERCE AND THE U.S. DEPARTMENT OF THE TREASURY CONCERNING THE RELEASE INTO THE COMMERCE OF THE UNITED STATES OF STEEL SUBJECT TO ARRANGEMENTS BETWEEN THE EUROPEAN COMMUNITIES AND THE UNITED STATES OF AMERICA

On October 21, 1982, the United States Government concluded two Arrangements with the European Communities (EC) restricting exports of certain steel products and steel pipes and tubes to the United States. These Arrangements will be in effect from November 1, 1982 through December 31, 1985. One of the Arrangements involves the immediate restraint by the EC of exports of certain steel products to the United States through a system of export licenses. The United States Government has agreed to require presentation to the U.S. Customs Service of a properly executed EC export certificate, issued by EC member state customs official against an export license, as an absolute condition for makings entry of steel products covered by the Arrangement. Under this Arrangement and a separate Arrangement on EC exports of steel pipes and tubes, requirement by the U.S. Customs Service of presentation of a valid export certificate or other documents issued by the EC or their member states for additional steel mill products may become necessary as a condition of entry.

The authority for this condition for entry into the United States is provided by section 626 of Title IV of the Tariff Act of 1930, as amended by section 153 of Public Law 97-276. President Reagan and the Head of the Delegation of the Commission of the European Communities to the United States, Sir Roy Denman, have requested in writing that Secretary of the Treasury Regan utilize his authority under section 626 to enforce the export measures taken by the EC under these Arrangements.

On November 5, 1982, U.S. Customs Headquarters issued a press release announcing that: "These shipments will be released from Customs custody only after formal acceptance of entry summary documents." This method of enforcement is referred to as "live entry." Since the time of that announcement, U.S. Customs Headquarters and Department of Commerce, Import Administration personnel have closely consulted to develop an effective alternative to the so-called live entry method that would preserve the required certainty in Arrangement enforcement but prove less burdensome on the importing community. During the course of these discussions, Customs and DOC personnel developed alternative measures which will meet these goals within the framework of existing Customs regulations. Accordingly, in order to carry out the purposes of the Arrangements and to ensure compliance with the terms thereof, the U.S. Department of Commerce and the U.S. Department of the Treasury have agreed to the following:

1. As an alternative to the live entry method, the U.S. Customs Service will allow entry release of steel products from the EC subject to the following conditions:

a. With respect to steel products that are currently subject to the export licensing provisions of the Arrangements or which become subject to licensing in the future, proper documentation sufficient to ensure the security and integrity of the Arrangements must be provided to and reviewed by the appropriate Customs officer prior to entry release. Such documentation shall include:

(i) a Customs Form 3461; (ii) a Special Steel Summary Invoice; (iii) a rated invoice; and (iv) an essentially correct export certificate.

b. With respect to EC steel products covered by the Arrangements but not currently subject to export licensing, the documentation listed in subparagraph a., above, with the exception of the export certificate, must be provided to and reviewed by the appropriate Customs officer prior to entry release.

2. Should entry release occur without the submission of the documentation listed in paragraph 1, or should review of the complete entry documentation reveal that release was improper, the appropriate District Director of Customs will promptly demand immediate redelivery of the entire shipment. The failure to redeliver in accordance with the demand of the District Director will result in the immediate revocation of entry release privileges (entry release privileges—sometimes referred to as immediate delivery—being described in 19 C.F.R. 142.1 through 142.8 *et seq.*) for the importer concerned. In addition, the failure to redeliver the entire shipment will cause the U.S. Customs Service to assess liquidated damages in accordance with Customs Regulations. The authority to mitigate liquidated damages will be exercised by the Deputy Assistant Secretary of the Treasury for Operations or such Department of the Treasury or U.S. Customs Service Headquarters official as he may designate. The Deputy Assistant Secretary for Operations, or his delegate, will also consult with the Deputy Assistant Secretary of Commerce for Import Administration, or his delegate, regarding the assessment of liquidated damages. The Deputy Assistant Secretary for Operations, or his delegate, also will seek and follow the recommendation of the Deputy Assistant Secretary for Import Administration, or his delegate, regarding the degree of mitigation, if any, of liquidated damages. In the event that the Deputy Assistant Secretary of the Treasury for Operations or such Department of the Treasury or U.S. Customs Service Headquarters official as he may designate does not follow the recommendation of the Department of Commerce, the Deputy Assistant Secretary for Operations will in writing provide the reason to the Deputy Assistant Secretary for Import Administration.

3. The U.S. Customs Service will use its best efforts to ascertain whether a violation of section 592 of the Tariff Act of 1930, as amended, has occurred in connection with any improper release of steel products into the commerce of the United

States, and will vigorously pursue any investigations of such occurrences. The Department of Commerce will provide any relevant information which it develops concerning such violations to the Deputy Assistant Secretary of the Treasury for Operations, or his delegate, and such information will be carefully considered during the course of the investigative process.

4. The Deputy Assistant Secretary of the Treasury for Operations, or his delegate, and the Deputy Assistant Secretary for Import Administration, or his delegate, will consult on other matters arising out of the administration of the U.S.-EC Arrangements on steel, as necessary.

Dated: January 8, 1983.

GARY N. HORLICK,
Deputy Assistant Secretary for Import Administration,
U.S. Department of Commerce.

Dated: January 4, 1983.

DAVID Q. BATES,
Deputy Assistant Secretary for Operations,
U.S. Department of the Treasury.

(T.D. 83-31)

Bonds

Approval and discontinuance of Carrier's Bonds, Customs Form 3587.

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: January 19, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Ace Transportation, Inc., P.O. Box 91714, Lafayette, LA; motor carrier; The Continental Ins. Co.	Nov. 29, 1982	Dec. 13, 1982	New Orleans, LA $25,000
Aroostook Van Lines, Inc.—See Gagnon & Son, Mover, Inc.			
Bradley Air Services Ltd., Carp Airport, Carp, Ontario, Canada; air carrier; Ins. Co. of North America	July 31, 1982	July 31, 1982	Buffalo, NY $25,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
The Colorado & Southern Railway Co., 1405 Curtis, Denver, CO; rail carrier; St. Paul Fire & Marine Ins. Co. D 11/29/82	Sept. 27, 1941	Nov. 15, 1941	El Paso, TX $50,000
Cunningham Distributing Corp., 1100 2nd Ave., SW, Great Falls, MT; motor carrier; St. Paul Fire & Marine Ins. Co. D 12/3/82	Oct. 26, 1979	Oct. 26, 1979	Great Falls, MT $25,000
D & W Forwarders Inc., 81 Orenda Rd., Brampton, Ontario, Canada; motor carrier; Aetna Casualty & Surety Co. (PB 2/9/79) D 11/29/82 [1]	Nov. 24, 1982	Nov. 29, 1982	Buffalo, NY $50,000
Dallas & Mavis Forwarding Co., Inc., 4314-39th Ave., Kenosha, WI; motor carrier; Safeco Ins. Co. of America	Oct. 1, 1982	Dec. 13, 1982	Milwaukee, WI $25,000
Economy Transport, Inc., 1205 St. Louis St., New Orleans, LA; motor carrier; Fireman's Fund Ins. Co.	Oct. 4, 1982	Nov. 18, 1982	New Orleans, LA $25,000
Empire Float & Crane Service, 231 South Service Rd., Grimsby, Ontario, Canada; motor carrier; U.S. Fidelity & Guaranty Co.	Nov. 10, 1982	Dec. 9, 1982	Buffalo, NY $25,000
Gagnon & Son, Mover, Inc. and/or Aroostook Van Lines, Inc., P.O. Box 247, Fort Fairfield, ME; motor carrier; The Aetna Casualty & Surety Co.	Aug. 24, 1982	Nov. 29, 1982	Portland, ME $25,000
Hamilton Trucking, Inc., 17 S.W. 4th Ave., Fort Lauderdale, FL; motor carrier; Old Republic Ins. Co.	Nov. 16, 1982	Nov. 16, 1982	Miami, FL $25,000
Hemingway Transport, Inc., 438 Dartmouth St., New Bedford, MA; motor carrier; Ins. Co. of North America D 12/5/82	Oct. 11, 1980	Oct. 24, 1980	Boston, MA $50,000
Humes Transport Ltd., 2492 St. Clair Ave., W., Toronto, Ontario, Canada; motor carrier; Hartford Fire Ins. Co. D 11/29/82	Dec. 3, 1972	Dec. 15, 1972	Detroit, MI $50,000
IKO Forwarders Ltd.—See D & W Forwarders Inc.			
Jaron Trucking Co., 123 Christie St., Newark, NJ; motor carrier; Peerless Ins. Co.	Oct. 26, 1982	Dec. 2, 1982	Newark, NJ $50,000
Kentucky Container Service, Inc. 1101 Rowan St., P.O. Box 4574, Louisville, KY; contract carrier; Fidelity & Deposit Co. of MD	Oct. 14, 1982	Oct. 20, 1982	Cleveland, OH $100,000
Kingsville Produce & Trucking, 179 Lansdowne Ave., Kingsville, Ontario, Canada; motor carrier; St. Paul Fire & Marine Ins. Co.	Nov. 3, 1982	Nov. 26, 1982	Buffalo, NY $25,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Kopak, Inc., dba: K Cartage, 4320 N.W. 72nd Ave., Miami, FL; motor carrier; Old Republic Ins. Co. (PB 9/30/80) D 11/1/82 [2]	Nov. 1, 1982	Nov. 1, 1982	Miami, FL $25,000
Laurel Hill Trucking Co., 614 New County Rd., Secaucus, NJ; motor carrier; Sentry Ins., a Mutual Co. (PB 10/16/80) D 11/15/82 [3]	Oct. 15, 1982	Nov. 15, 1982	Newark, NJ $50,000
Metro Hauling, Inc., P.O. Box 88824, Seattle, WA; motor carrier; The Travelers Indemnity Co. (PB 11/28/79) D 12/2/82	Nov. 28, 1982	Dec. 2, 1982	Seattle, WA $25,000
P & H Transportation, Inc., 6939 Old Clinton Dr., Houston, TX; motor carrier; Washington International Ins. Co.	Dec. 16, 1982	Dec. 16, 1982	Houston, TX $50,000
Purolator Courier Corp., 3333 New Hyde Park Rd., New Hyde Park, NY; motor and air carrier; American Casualty Co. of Reading, PA	Dec. 7, 1982	Dec. 9, 1982	Cleveland, OH $100,000
Reilly Transportation Co., 2808 ITM Bldg., New Orleans, LA; motor carrier; Ins. Co. of North America	Sept. 1, 1982	Nov. 19, 1982	New Orleans, LA $25,000
Johnnie Richard dba: Richard Transportation, Inc., 802 Short St., Kenner, LA; motor carrier; Old Republic Ins. Co.	Nov. 23, 1982	Dec. 2, 1982	New Orleans, LA $25,000
Road Wings, Inc., 1521 N.W. 82nd Ave., Miami, FL; motor carrier; Old Republic Ins. Co.	Oct. 25, 1982	Oct. 25, 1982	Miami, FL $50,000
Roadrunner Trucking Inc., 4100 Edith, NE., Albuquerque, NM; motor carrier; Safeco Ins. Co. of America D 12/12/82	Dec. 12, 1979	Feb. 25, 1980	El Paso, TX $25,000
Royal Express, Inc., 129 Westview Dr., P.O. Box 632, Bardstown, KY; motor carrier; Continental Ins. Co. D 12/14/82	Dec. 9, 1981	Dec. 16, 1981	Cleveland, OH $100,000
TIC Transport Internat'l Commodities Inc., Hwy. 34, Alexandria, Ontario, Canada; motor carrier; The Hanover Ins. Co.	Aug. 11, 1982	Dec. 3, 1982	Ogdensburg, NY $25,000
Varbus Enterprises, Inc., dba: Valley Truck Lines, 149 W. 6th St., Calexico, CA; motor carrier; Ins. Co. of North America (PB 1/31/79) D 12/16/82	Apr. 14, 1982	Dec. 16, 1982	San Diego, CA $50,000

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[1] Principal is IKO Forwarders Ltd.

[2] Principal is Kopak, Inc., dba: K-Cartage Corp.; Surety is St. Paul Fire & Marine Ins. Co.

[3] Surety is Western Surety Co.

BON-3-03

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-32)

Bonds

Approval and discontinuance of Carrier's Bonds, Customs Form 3587

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: January 27, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Arrow Transportation Systems, Inc., & its w/o/s: Arrow Transportation (INT) Inc., 10844 E. Marginal Way So., Seattle, WA; motor carrier; The Continental Ins. Co.	Sept. 1, 1982	Nov. 1, 1982	Seattle, WA $25,000
Atlantis Transportation Services Inc., 900 Stevenson Rd., N. Oshawa Airport, Oshawa, Ontario, Canada; air carrier; Royal Ins. Co. of America	Sept. 13, 1982	Sept. 13, 1982	Buffalo, NY $25,000
Best Ways Express, Inc., 129-176th St., So., Suite 6, Spanaway, WA; motor carrier; Washington International Ins. Co.	Dec. 13, 1982	Dec. 20, 1982	Seattle, WA $25,000
Bulk Haulers, Inc., 27 Airport Rd., Nashua, NH; motor carrier; Hartford Accident & Indemnity Co. (PB 12/9/80) D 11/10/82 [1]	Nov. 9, 1982	Nov. 10, 1982	Portland, ME $50,000
Burkhardt Trucking Corp., 4000 Santa Fe Ave., Long Beach, CA; motor carrier; St. Paul Fire & Marine Ins. Co.	Apr. 19, 1982	Dec. 27, 1982	Los Angeles, CA $50,000
Cain Motor Lines, Inc., P.O. Box 24253, Houston, TX; motor carrier; St. Paul Fire & Marine Ins. Co. D 11/22/82	Feb. 5, 1979	Feb. 6, 1979	Houston, TX $25,000
Container Transfer Service, 4533 N. Channel Ave., Portland, OR; motor carrier; Fireman's Fund Ins. Co.	Oct. 28, 1982	Dec. 15, 1982	Portland, OR $25,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Contract Transport, Inc., Suite 202, 1750 Old Springhouse Lane, Atlanta, GA; motor carrier; Western Surety Co.	Oct. 5, 1982	Nov. 8, 1982	Savannah, GA $25,000
Franks & Son, Inc., Rt. 1, Box 108A, Big Cabin, OK; motor carrier; Aetna Casualty & Surety Co. (PB 2/23/80) D 10/15/82 [3]	Oct. 16, 1982	Dec. 15, 1982	Nogales, AZ $25,000
GRM, Inc., dba: Port Terminal Transport, Inc., 700 Henry Ford Ave., Long Beach, CA; motor carrier; Employers Ins. of Wausau	Oct. 8, 1982	Jan. 4, 1983	Los Angeles, CA $50,000
Hamett Truck Lines, Inc., 7720 Pinemont, Houston, TX; motor carrier; St. Paul Fire & Marine Ins. Co. (PB 4/25/79) D 12/28/82	Dec. 28, 1982	Dec. 28, 1982	Houston, TX $25,000
J & P Express, 11017 Wildcat Canyon Rd., Lakeside, CA; motor carrier; Amwest Surety Ins. Co.	July 23, 1982	Dec. 27, 1982	San Diego, CA $50,000
Lanier Express, Inc., 2775 Highway 54 West, Fayetteville, GA; motor carrier; Firemen's Ins. Co. of Newark, NJ	July 31, 1982	Dec. 29, 1982	Savannah, GA $25,000
M & D Transportation, P.O. Box 775, Glendale, AZ; motor carrier; Old Republic Ins. Co.	Dec. 6, 1982	Jan. 3, 1983	Nogales, AZ $25,000
M & G Convoy Inc., 590 Elk St., Buffalo, NY; motor carrier; Fidelity & Deposit Co. of MD (PB 7/8/68) D 12/31/82 [3]	Jan. 1, 1983	Jan. 1, 1983	Buffalo, NY $25,000
McClellans Enterprises, Inc., Hwy. 41 South, P.O. Box 1827, Tifton, GA; motor carrier; The Travelers Indemnity Co.	Oct. 26, 1982	Nov. 16, 1982	Savannah, GA $25,000
Manhattan Marine, Inc., dba: Manhattan Bonded Seastores, 4601 Harrisburg, Houston, TX; motor carrier; St. Paul Fire & Marine Ins. Co.	Nov. 22, 1982	Dec. 29, 1982	Houston, TX $25,000
Maritime Cartage, Inc., Port Blvd., Dodge Island, Miami, FL; motor carrier; Peerless Ins. Co. (PB 7/18/74) D 10/5/76 [4]	Oct. 5, 1976	Oct. 5, 1976	Miami, FL $25,000
O.F. Miller Trucking, 204 N. Hauser Dr., Covina, CA; motor carrier; St. Paul Fire & Marine Ins. Co.	Dec. 2, 1982	Dec. 27, 1982	Los Angeles, CA $50,000
Minnesota Pipe Line Co., W-1062 First National Bank Bldg.; pipe line; St. Paul Fire & Marine Ins. Co. D 11/12/82	Nov. 12, 1970	Dec. 10, 1970	Minneapolis, MN $100,000
National Service Lines Inc. of New Jersey, P.O. Box 1746, Hazelwood, MN; motor carrier; St. Paul Fire & Marine Ins. Co.	Jan. 4, 1982	Nov. 18, 1982	Philadelphia, PA $50,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
New Concept Transportation Inc., 458 Kleman Rd., Gilbertsville, PA; motor carrier; Protective Ins. Co.	Dec. 8, 1982	Dec. 13, 1982	Philadelphia, PA $25,000
Pennsylvania Truck Lines, Inc., 308 E. Lancaster Ave., Wynnewood, PA; motor carrier; St. Paul Fire & Marine Ins. Co. (PB 11/7/78) D 4/1/82[6]	Dec. 11, 1981	April 1, 1982	Philadelphia, PA $100,000
Pitt County Transportation Co., Inc., P.O. Box 207, Farmville, NC; motor carrier; Allied Fidelity Ins. Co. (PB 12/10/81) D 1/3/83[6]	Nov. 22, 1982	Jan. 4, 1983	Wilmington, NC $25,000
Port Terminal Transport, Inc.—See GRM, Inc.			
Raemarc, Inc., P.O. Box 1203, Racine, WI; motor carrier; The American Ins. Co.	Nov. 4, 1982	Dec. 14, 1982	Milwaukee, WI $25,000
Rocket Express, Inc., 1037 Lees Mill Rd., P.O. Box 45065, Atlanta, GA; motor carrier; Aetna Casualty & Surety Co.	Sept. 27, 1982	Oct. 7, 1982	Savannah, GA $25,000
Southeastern Transfer & Storage Co., Inc., 2561 Plant Atkinson Rd., Smyrna, GA; motor carrier; Ins. Co. of North America	July 8, 1982	Dec. 29, 1982	Savannah, GA $25,000
Trans-United, Inc., 202 E. 112th St., Hammond, IN; motor carrier; Fidelity & Deposit Co. of MD	Nov. 4, 1982	Dec. 14, 1982	Chicago, Ill. $25,000
Ralph Valls & Son, Inc., Suite 109, Oil Industries Bldg., Corpus Christi, TX; motor carrier; St. Paul Fire & Marine Ins. Co. (PB 7/30/74) D 12/28/82	Dec. 20, 1982	Dec. 28, 1982	Houston, TX $25,000
West Coast Agencies, Inc., 4934 Long Beach Blvd., # D, Long Beach, CA; motor carrier; Liberty Mutual Ins. Co.	Nov. 12, 1982	Dec. 27, 1982	Los Angeles, CA $50,000
West Coast Truck Lines, Inc., 85647 Highway 99 South Eugene, OR; motor carrier; United Pacific Ins. Co. (PB 2/2/81) D 12/8/82[7]	Nov. 29, 1982	Dec. 8, 1982	Portland, OR $25,000
Yowell Transportation Services, Inc., 1840 Cardington Rd., Dayton, OH; motor carrier; Mid-Century Ins. Co.	Sept. 7, 1982	Dec. 21, 1982	Cleveland, OH $50,000

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[1] Surety is New Hampshire Ins. Co.
[2] Surety is Kansas City Fire & Marine Ins. Co.
[3] Surety is The Travelers Indemnity Co.
[4] Surety is U.S. Fidelity & Guaranty Co.
[5] Surety is National Union Fire Ins. Co.
[6] Surety is Protective Ins. Co.
[7] Surety is Fireman's Fund Ins. Co.

BON-3-03

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-33)

CLASSIFICATION OF CIGAR TOBACCO

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Change of Practice.

SUMMARY: This document advises the public that the Customs Service is changing its practice of classifying cigar tobacco. Customs previous practice involved the segregation of wrapper tobacco from filler tobacco, and the classification of all cigar tobacco in a particular unit with a wrapper content of 35 percent or more as wrapper tobacco. Customs new practice will involve the segregation of wrapper tobacco from filler tobacco and the classification of each under the appropriate provision of the Tariff Schedules of the United States.

DATE: This practice will become effective February 7, 1983. It will apply to all cigar tobacco both: (1) imported on and after January 1, 1976; and (2) entered, or withdrawn from warehouse for consumption, on and after July 4, 1981.

FOR FURTHER INFORMATION CONTACT: J. G. Hurley, General Classification Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8181).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Title V of the Trade Act of 1974 (19 U.S.C. 2461-2465) (the "Trade Act") authorizes the President to establish a Generalized System of Preferences (GSP) to provide duty-free entry for eligible articles arriving directly from designated "beneficiary developing countries." Section 503(b) of the Trade Act (19 U.S.C. 2463(b)), relating to the requirements which must be met for eligible articles to receive duty-free treatment, authorizes the Secretary of the Treasury to prescribe such regulations as may be necessary to carry out the provisions of that subsection.

Sections 10.171 through 10.178, Customs Regulations (19 CFR 10.171-10.178), set forth the requirements and procedures for the entry of eligible merchandise from "beneficiary developing countries" under GSP.

Executive Order 12311 of June 29, 1981, published in the Federal Register on July 1, 1981 (46 FR 34305), designated two categories of cigar wrapper tobacco (items 170.12 and 170.13, Tariff Schedules of the United States (TSUS; 19 U.S.C. 1202)), as eligible articles for duty-free treatment under the GSP, effective July 4, 1981. GSP eligibility was limited to bales of wrapper tobacco containing no more than five percent of filler tobacco by volume. Bales containing more than five percent by volume of filler tobacco were provided for under items 170.08 and 170.09, TSUS.

Prior to July 4, 1981, Customs had a practice of segregating wrapper tobacco from filler tobacco, and classifying all tobacco with a wrapper content of more than 35 percent as wrapper tobacco. If the percentage of wrapper tobacco was 35 percent or less, the wrapper tobacco was classified as wrapper tobacco and the filler tobacco was classified as filler tobacco. Because of Executive Order 12311, and the incompatibility of the five percent limit therein with Customs classification practice (the 35 percent limit), Customs has not liquidated any entries of cigar tobacco since July 3, 1981.

Executive Order 12354 of March 30, 1982, published in the Federal Register on March 31, 1982 (47 FR 13477), reinstated the provisions for wrapper tobacco which were in effect prior to Executive Order 12311 (item 170.10 and 170.15, TSUS). All wrapper tobacco is now eligible for duty-free treatment under the GSP without the five percent limitation of Executive Order 12311.

Executive Order 12389 of October 25, 1982, published in the Federal Register on October 27, 1982 (47 FR 47529), provided that the changes made by Executive Order 12354 with respect to wrapper tobacco are effective as to articles both: (1) imported on and after January 1, 1976; and (2) entered, or withdrawn from warehouse for consumption, on and after July 4, 1981.

The present situation necessitates a change in Customs practice of classifying wrapper tobacco, in order that filler tobacco not be given GSP treatment. Accordingly, following the segregation of wrapper tobacco from filler tobacco, all wrapper tobacco will be classified under item 170.10 or 170.15, TSUS, and will be eligible for duty-free treatment under the GSP. All filler tobacco will be classified under its appropriate TSUS provision, and will not be eligible for duty-free treatment under the GSP.

This new practice will apply to all cigar tobacco both: (1) imported on and after January 1, 1976; and (2) entered, or withdrawn from warehouse for consumption, on and after July 4, 1981.

DRAFTING INFORMATION

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

Dated: January 28, 1983.

WILLIAM VON RAAB,
Commissioner of Customs.

[Published in the Federal Register, February 7, 1983 (48 FR 5644)]

(T.D. 83-34)

CUSTOMHOUSE BROKER LICENSE—CANCELLATION

Cancellation With Prejudice of Individual Customhouse Broker's License No. 5066 and Corporate Customhouse Broker's License No. 6580 Issued for the New York Region.

Notice is hereby given that the Commissioner of Customs on January 21, 1983, pursuant to section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641), and section 111.51(b), Customs Regulations, as amended (19 C.F.R. 111.51(b)), upon the specific request of Edward K. Saar, Jamaica, New York, cancelled with prejudice individual Customhouse Broker's License No. 5066 issued to him on October 23, 1974, and corporate Customhouse Broker's License No. 6580 issued for Saar Systems, Inc., on August 22, 1980, for the New York Region.

The Commissioner's decision is effective as of January 21, 1983.

WILLIAM VON RAAB,
Commissioner of Customs.

[Published in the Federal Register, February 3, 1983 (48 FR 4951)]

(T.D. 83-35)

Approval of public gauger performing gauging under standards and procedures required by Customs

Notice is hereby given pursuant to the provisions of section 151.43 of the Customs Regulations (19 CFR 151.43) that the application of Watson Gray (U.S.A.) Inc., 9001 Airport Boulevard, Houston, Texas 77034, to gauge imported petroleum and petroleum products in all Customs districts in accordance with the provisions of section 151.43, Subpart C, of the Customs Regulations is approved.

Dated: January 31, 1983.

DONALD W. LEWIS,
Director, Entry Procedures and Penalties Division.

[Published in the Federal Register, February 3, 1983 (48 FR 4950)]

(T.D. 83-36)

Bonds

Approval and discontinuance of consolidated aircraft bonds (air carrier blanket bonds), Customs Form 7605

The following consolidated aircraft bonds have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: February 2, 1983.

Name of principal and surety	Date term commences	Date of approval	Filed with district director/area director/amount
Air Nauru, 841 Bishop St., Suite 506, Honolulu, HI; Industrial Indemnity Co.	Dec. 10, 1982	Dec. 14, 1982	Honolulu, HI $100,000
The foregoing principal has not been designated as a carrier of bonded merchandise.			
Singapore Airlines, Ltd., San Francisco International Airlines, San Francisco, CA; St. Paul Fire & Marine Ins. Co. (PB 6/15/80) D 3/30/82 [1]	Mar. 30, 1982	May 18, 1982	San Francisco, CA $100,000
The foregoing principal has been designated as a carrier of bonded merchandise.			

[1] Surety is The Continental Ins. Co.

BON-3-01

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-37)

CUSTOMS APPROVED PUBLIC GAUGER

Approval of public gauger performing gauging under standards and procedures required by Customs

Notice is hereby given pursuant to the provisions of section 151.43 of the Customs Regulations (19 CFR 151.43) that the application of Chem Coast, Inc., 1609 First Street, Galena Park, Texas 77547, to gauge imported petroleum and petroleum products in all Customs districts in accordance with the provisions of section 151.43, Subpart C, of the Customs Regulations is approved.

Dated: February 7, 1983.

A. PIAZZA
(For Donald W. Lewis, Director,
Entry Procedures and Penalties Division).

[Published in the Federal Register, February 10, 1983 (48 FR 6234)]

(T.D. 83-38)

Correction of a Customs Finding Relating to the Tariff Classification of Certain Imported Printing Mechanisms

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of correction.

SUMMARY: This document gives notice that a previous Customs finding of an established and uniform practice of classifying certain printing mechanisms under the provision for office machines, not specially provided for, in item 676.30, Tariff Schedules of the United States (TSUS), was made in error, and that a practice did not, in fact, exist at the time of the finding. Customs now finds that the subject mechanisms are correctly classified under the provision for other parts of office machines, not specially provided for, in item 676.52, TSUS, at a higher rate of duty.

EFFECTIVE DATE: February 14, 1983.

FOR FURTHER INFORMATION CONTACT: James C. Hill, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8181).

SUPPLEMENTARY INFORMATION:

BACKGROUND

In a ruling letter addressed to counsel for the importer of certain printing mechanisms, dated April 26, 1976 (File No. 040922), Customs expressed the opinion that mechanisms to be placed in the same housings with cash registers, calculators, or other data source collectors such as printers, were classifiable under the provision for other parts of office machines, not specially provided for, in item 676.52, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202).

Subsequently, counsel for the importer submitted summaries of his client's importing experience purporting to show that there was an established and uniform Customs practice of classifying certain models of the printing mechanisms under the provision for office machines, not specially provided for, in item 676.30, TSUS. The column 1 rate of duty for merchandise entered under item 676.30, TSUS, has been, and presently is, less than the column 1 rate of duty for merchandise entered under item 676.52, TSUS. Customs reviewed the information submitted on behalf of the importer and issued a finding on August 18, 1976 (File No. 040922), that there was an established and uniform tariff classification practice with respect to 12 specific models of the printing mechanisms, and authorized pending entries of these articles to be liquidated at the lower rate of duty under item 676.30, TSUS.

However, later review of this matter showed that the import records concerning these articles were not complete, that some of these and other similar printing mechanisms has been entered at the higher rate of duty under item 676.52, TSUS, at several ports of entry, and that the liquidation of entries for this merchandise has been suspended at the time of Customs August 18, 1976 finding pending clarification of the appropriate tariff classification of the printing mechanisms. Consequently, Customs finding was based on insufficient factual information.

CORRECTION

In view of the above, a notice was published in the Federal Register on May 26, 1982 (47 FR 23065), advising the public that Customs finding of August 18, 1976 was erroneous, and that the printing mechanisms were correctly classified under item 676.52, TSUS, at the applicable rate of duty. Pursuant to section 315(d), Tariff Act of 1930, as amended (19 U.S.C. 1315(d)), and section 177.10(c), Customs Regulations (19 CFR 177.10(c)), Customs requested comments on the proposed correction. Comments were requested on or before July 26, 1982. However, none were received.

ACTION

After further review of this matter, Customs proposal to correct its previous finding of an established and uniform practice of classifying the subject printing mechanisms under item 676.30, TSUS, and to classify them under item 676.52, TSUS, is adopted. Accordingly, all merchandise entered, or withdrawn from warehouse for consumption, on or after the effective date of this notice, will be classified under item 676.52, TSUS, at the applicable rate of duty.

DRAFTING INFORMATION

The principal author of this document was Jesse V. Vitello, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: February 7, 1983.

WILLIAM VON RAAB,
Commissioner of Customs.

[Published in the Federal Register, February 14, 1983 (48 FR 6632)]

(T.D. 83-39)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
January 3-4, 1983	$0.000021
January 5-7, 1983	.000020
Chile peso:	
January 3-6, 1983	.013624
January 7, 1983	.013459
Colombia peso:	
January 3-6, 1983	.014235
January 7, 1983	.014182
Greece drachma:	
January 3, 1983	.014174
January 4, 1983	.014164
January 5, 1983	.014154
January 6, 1983	.014174
January 7, 1983	.014158
Indonesia rupiah:	
January 3-4, 1983	.001449
January 5-7, 1983	.001440
Israel shekel:	
January 3-4, 1983	.029647
January 5, 1983	.029438
January 6, 1983	.029351
January 7, 1983	.029257
Peru sol:	
January 3-6, 1983	.001014
January 7, 1983	.000992
South Korea won:	
January 3-4, 1983	.001337
January 5-7, 1983	.001335

(LIQ-03-01 O:C:E)

Dated: January 7, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-40)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certiied buying rates for the dates and foreign currencies shown below. The rates of Exchange, based on these buying rates, are published for the information and use of Customs officers and others cerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
January 10–14, 1983	$0.000020
Chile peso:	
January 10–14, 1983	.013459
Colombia peso:	
January 10–13, 1983	.014182
January 14, 1983	.014128
Greece drachma:	
January 10, 1983	.011969
January 11, 1983	.011905
January 12, 1983	.011940
January 13, 1983	.011976
January 14, 1983	.011919
Indonesia rupiah:	
January 10–14, 1983	.001440
Israel shekel:	
January 10, 1983	.029257
January 11, 1983	.029028
January 12, 1983	.029028
January 13, 1983	.028818
January 14, 1983	.028703
Peru sol:	
January 10–13, 1983	.000992
January 14, 1983	.000976
South Korea won:	
January 10–14, 1983	.001335

(LIQ-03-01 O:C:E)

Dated: January 14, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-41)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of Exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (1 CFR 159, Subpart C).

Argentina peso:	
January 17-21, 1983	$0.000020
Chile peso:	
January 17-20, 1983	.013459
January 21, 1983	.013298
Colombia peso:	
January 17-20, 1983	.014128
January 21, 1983	.014057
Greece drachma:	
January 17, 1983	.011947
January 18, 1983	.011891
January 19, 1983	.011905
January 20, 1983	.011905
January 21, 1983	.011884
Indonesia rupiah:	
January 17-20, 1983	.001440
January 21, 1983	.001437
Israel shekel:	
January 17, 1983	.028703
January 18, 1983	.028466
January 19, 1983	.028393
January 20-21, 1983	.028337
Peru sol:	
January 17-20, 1983	.000976
January 21, 1983	.000963
South Korea won:	
January 17-19, 1983	.001334
January 20-21, 1983	.001332

(LIQ-03-01 O:C:E)

Dated: January 21, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-42)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of Exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
January 24-28, 1983	$0.000020
Chile Peso:	
January 24-28, 1983	.013459
Colombia peso:	
January 24-28, 1983	.014057
Greece drachma:	
January 24, 1983	.011841
January 25, 1983	.011905
January 26, 1983	.011919
January 27, 1983	.011905
January 28, 1983	.011905
Indonesia rupiah:	
January 24-28, 1983	.001437
Israel shekel:	
January 24, 1983	.028177
January 25, 1983	.028144
January 26, 1983	.028145
January 27, 1983	.027980
January 28, 1983	.027980
Peru sol:	
January 24-28, 1983	.000963
South Korea won:	
January 24-28, 1983	.001331

(LIQ-03-01 O:C:E)

Dated: January 28, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-43)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of Exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
January 31, 1983	$0.000020
Chile peso:	
January 31, 1983	.013298
Colombia peso:	
January 31, 1983	.014004
Greece drachma:	
January 31, 1983	.011905
Indonesia rupiah:	
January 31, 1983	.001434
Israel shekel:	
January 31, 1983	.027793
Peru sol:	
January 31, 1983	.000948
South Korea won:	
January 31, 1983	.001331

(LIQ-03-01 O:C:E)

Dated: January 31, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-44)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New

York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-19 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Mexico peso:	
January 5, 1983	$0.006623
January 7, 1983	.006680

(LIQ-03-01 O:C:E)

Dated: January 7, 1983.

Angela DeGaetano,
Chief,
Customs Information Exchange.

(T.D. 83-45)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-19 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Mexico peso:	
January 10, 1983	$0.006667
January 12, 1983	.006636
January 13-14, 1983	.006623
Portugal escudo:	
January 13, 1983	.010417
January 14, 1983	.010390

(LIQ-03-01 O:C:E)

Dated: January 14, 1983.

Angela DeGaetano,
Chief,
Customs Information Exchange.

(T.D. 83-46)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-19 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Brazil cruzeiro:	
January 20-21, 1983	$0.003758
Mexico peso:	
January 17, 1983	.006645
January 18, 1983	.006680
January 19, 1983	.006702
January 20, 1983	.006702
January 21, 1983	.006689
Portugal escudo:	
January 17-20, 1983	.010283
January 21, 1983	.010363

(LIQ-03-01 O:C:E)

Dated: January 21, 1983.

Angela DeGaetano,
Chief,
Customs Information Exchange.

(T.D. 83-47)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified t the Secretary of the Treasury by the Federal Reserve Bank of Nev York, pursuant to section 522(c), Tariff Act of 1930, as amended (3 U.S.C. 372(c)), and reflect variances of 5 per centum or more fron the quarterly rate published in Treasury Decision 83-19 for the fol lowing countries. Therefore, as to entries covering merchandise ex ported on the dates listed, whenever it is necessary for Custom purposes to convert such currency into currency of the Unite States, conversion shall be at the following rates.

Brazil cruzeiro:	
January 24-27, 1983	$0.003695
January 28, 1983	.003633

Mexico peso:	
January 24, 1983	.006711
January 25, 1983	.006698
January 26–28, 1983	.006689
Portugal escudo:	
January 24, 1983	.010178
January 25, 1983	.010283
United Kingdom pound:	
January 24, 1983	1.5405
January 25, 1983	1.5388
January 26, 1983	1.5280
January 27, 1983	1.5365
January 28, 1983	1.5362

(LIQ-03-01 O:C:E)

Dated: January 28, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-48)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-19 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Brazil cruzeiro:	
January 31, 1983	$0.003633
Mexico peso:	
January 31, 1983	.006716
United Kingdom pound:	
January 31, 1983	1.5202

(LIQ-03-01 O:C:E)

Dated: January 31, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-49)

Bonds

Approval and discontinuance of Carrier's Bonds, Customs Form 3587

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: February 17, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Acosta Fast Transportation Services, Inc., Box S-5693, Old San Juan, PR; motor carrier; Peerless Ins. Co. (PB 1/12/76) D 8/8/79	Nov. 17, 1982	Dec. 2, 1982	San Juan, PR $25,000
Admiral Merchants Motor Freight, Inc., 215 S. 11th St., Minneapolis, MN; motor carrier; Protective Ins. Co. (PB 12/31/75) D 11/18/82	July 27, 1982	Nov. 18, 1982	Minneapolis, MN $50,000
Air Freight Expeditors, Inc., 19030 28th Ave., So., Seattle, WA; motor carrier; Old Republic Ins. Co.	Jan. 17, 1983	Jan. 21, 1983	Seattle, WA $25,000
Air Service Consolidator Transport, Inc., 2805 W. Nasa Blvd., Melbourne, FL; air carrier; Washington International Ins. Co. (PB 9/11/80) D 12/1/82 [1]	Dec. 1, 1982	Dec. 1, 1982	Buffalo, NY $25,000
Ajax Transportation Co., Inc., 485 Harrison Ave., Boston, MA; motor carrier; The Hanover Ins. Co. (PB 12/3/70) D 1/18/83 [2]	Dec. 1, 1982	Jan. 12, 1983	Boston, MA $25,000
E. J. Bourque Transport, LTD, Mont Joli, P.Q., Canada; motor carrier; Old Republic Ins. Co., (PB 2/7/76) D 2/6/83 [3]	Dec. 21, 1982	Feb. 7, 1983	Portland, ME $25,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
iggs Transportation Co., N. 400 Griggs Midway Bldg., St. Paul, MN; motor carier; Hartford Accident & Indemnity Co. D 12/10/82	July 15, 1981	July 20, 1981	Minneapolis, MN $25,000
avan Refrigerated Cargo, Inc., 605 S. oop 12, Irving, TX; motor carrier; Na- ional Union Fire Ins. Co. of Pittsburgh, A (PB 6/17/75) D 10/19/81 [4]	Oct. 20, 1981	Oct. 20, 1981	Houston, TX $25,000
ibbean Atlantic Airlines, Inc., P.O. ox 6035, Loiza Station, Santurce, PR; r carrier; Great American Ins. Co. D 1/11/83	Mar. 1, 1968	Mar. 5, 1968	San Juan, PR $25,000
tral Division, Inc., P.O. Box 34303, harlotte, NC; motor carrier; Lawyers irety Corp. (PB 5/11/82) D 1/14/83 [5]	Dec. 13, 1982	Jan. 17, 1983	Wilmington, NC $25,000
solidated Transfer & Warehouse Co., c., Taney & Levee Rd., N. Kansas ty, MO; motor carrier; Fidelity & De- sit Co. D 9/2/82	Sept. 2, 1980	Sept. 24, 1980	Houston, TX $25,000
very Service Inc., 155 Bignall St., rwick, RI; motor carrier; Fidelity & posit Co. of MD) 2/6/83	June 9, 1978	June 19, 1979	Providence, RI $25,000
DeWitt, Inc., P.O. Box 70, Ellerbe, motor carrier; U.S. Fidelity & aranty Co. PB 11/28/69) D 1/10/83 [6]	Nov. 28, 1982	Jan. 11, 1983	Wilmington, NC $25,000
Transport Co., Inc., 934 44th Ave., Nashville, TN; motor carrier; Amer- Casualty Co. of Reading, PA B 11/19/69) D 1/6/83 [7]	Dec. 7, 1982	Jan. 6, 1983	Tampa, FL $25,000
r Transfer, Inc., 2400 S. Weccacoe Philadelphia, PA; motor carrier; rless Ins. Co.	Dec. 29, 1982	Jan. 6, 1983	Philadelphia, PA $25,000
C. Howard, Inc., 760 E. Vine St., amazoo, MI; motor carrier; The na Casualty & Surety Co.	Nov. 29, 1982	Jan. 10, 1983	Detroit, MI $50,000
Land & Co., Inc., P.O. Drawer , Lake Wales, FL; motor carrier; ry Indemnity Co.	Nov. 29, 1982	Jan. 14, 1983	Tampa, FL $25,000
Enterprises, Inc., 2208 One Canal New Orleans, LA; motor carrier; Republic Ins. Co.	Dec. 17, 1982	Dec. 28, 1982	New Orleans, LA $25,000
Florida Transport Service, Rt. 1, 595, Summerfield, FL; motor carri- ationwide Mutual Ins. Co.	Dec. 20, 1982	Jan. 6, 1983	Tampa, FL $25,000

notes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Regency Motor Freight, Inc., 26600 Van Born Rd., Dearborn Heights, MI; motor carrier; American Motorists Ins. Co. D 2/3/83	Feb. 4, 1981	Feb. 10, 1981	Milwaukee, WI $25,000
Rochester Air Freight Service Corp., 73 Deep Rock Rd., Rochester, NY; air carrier; Washington Intern'l Ins. Co. (PB 12/1/75) D 12/29/82 [8]	Dec. 29, 1982	Dec. 29, 1982	Buffalo, NY $25,000
Seaboard Coast Line Railroad Co., 3600 W. Broad St., Richmond, VA; rail carrier; Federal Ins. Co. D 1/20/83	June 30, 1967	July 10, 1967	Norfolk, VA $50,000
Bobby Smith Transport, Inc., 2520 N.E. 35th St., P.O. Box 7556, Fort Worth, TX; motor carrier; The Millers Mutual Fire Ins. Co. of TX D 1/20/83	Apr. 7, 1982	Apr. 15, 1982	Laredo, TX $25,000
Supertone Transportation Ltd., 58 Marathon Crescent, Willowdale, Ontario, Canada; motor carrier; Northwestern National Ins. Co. of Milwaukee, WI	Oct. 15, 1982	Jan. 7, 1983	Buffalo, NY $25,000
Tanner's Transfer & Storage, 2050 Westmoreland St., Richmond, VA; motor carrier; Peerless Ins. Co. D 12/15/82	June 1, 1978	Aug. 23, 1978	Norfolk, VA $25,000
Westrux Timber Transit, Inc., 17341 56th Ave., Surrey, B.C., Canada; motor carrier; Safeco Ins. Co. of America	Nov. 18, 1982	Jan. 11, 1983	Seattle, WA $25,000

[1] Surety is Old Republic Ins. Co.
[2] Surety is Employers Commercial Union Ins. Co.
[3] Surety is Peerless Ins. Co.
[4] Surety is Protective Ins. Co.
[5] Surety is The Aetna Casualty & Surety Co.
[6] Surety is The Home Indemnity Co.
[7] Principal is Fleet Transport Co., Inc.; Surety is St. Paul Fire & Marine Ins. Co.
[8] Surety is Peerless Ins. Co.

BON-3-03

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-50)

Bonds

Approval and discontinuance of bonds on Customs Form 7587 for the control of Instruments of International Traffic of a kind specified in section 10.41a of the Customs Regulations

Bonds on Customs Form 7587 for the control of instruments of international traffic of a kind specified in section 10.41a of the Cus-ns Regulations have been approved or discontinued as shown ow. The symbol "D" indicates that the bond previously outstand- has been discontinued on the month, day, and year represented the figures which follow. "PB" refers to a previous bond, dated as resented by the figures in parentheses immediately following, ch has been discontinued. If the previous bond was in the name different company or if the surety was different, the informa- is shown in a footnote at the end of the list.

ated: February 24, 1983.

ame of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Engineering Co. 230 Park Ave., York, NY; Washington Interna- l Ins. Co.	Jan. 6, 1983	Jan. 11, 1983	New York Seaport $10,000
Chalmers Corp., P.O. Box 512, aukee, WI; Federal Ins. Co. 3/19/83	Mar. 19, 1982	Mar. 23, 1982	Milwaukee, WI $25,000
an Motors Corp., 27777 Frank- d., Southfield, MI; St. Paul Fire rine Ins. Co. 3 12/1/76) D 12/1/82[1]	Dec. 1, 1982	Dec. 1, 1982	Detroit, MI $10,000
an Oceanic Shipping Corp. of 09 Fannin St. Houston, TX; St. Fire & Marine Ins. Co. 2/22/82	Oct. 4, 1979	Oct. 5, 1979	Houston, TX $10,000
ed Forwarders, Inc., 1000 Bldg., New Orleans, LA; St. Fire & Marine Ins. Co.	Dec. 24, 1982	Jan. 13, 1983	New Orleans, LA $10,000
Shipping Co., Inc., Pier No. 9, uan, PR; New Hampshire Ins. 1/28/82) D 1/27/83[2]	Jan. 28, 1983	Jan. 23, 1983	San Juan, PR $10,000
Inc./Chemicals Group/Lime Di- 395 De Maisonneuve Blvd., ontreal, Quebec, Canada; The ental Ins. Co. 21/76) D 11/2/82[3]	Aug. 31, 1982	Nov. 3, 1982	Buffalo, NY $10,000
Beverage Co., P.O. Box 23663, d, CA; Washington Interna- ns. Co. /21/73) D 10/22/84[4]	Oct. 15, 1982	Oct. 22, 1982	San Francisco, CA $10,000
oyd (America), Inc., 17 Bat- ce, New York, NY; American Co. of Reading, PA	Jan. 1, 1983	Jan. 3, 1983	New York Seaport $10,000
onno Inc., P.O. Box 400, NJ; American Motorists Ins. /83	Nov. 24, 1980	Nov. 26, 1980	New York Seaport $10,000
, Inc., P.O. Drawer 38, LA; Old Republic Ins. Co.	Jan. 19, 1983	Jan. 19, 1983	New Orleans, LA $10,000

s at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Nieves Hermanos, Inc., #57 General Contreras St., San Juan, PR Cooperativa de Seguros Multiples de PR	Jan. 14, 1983	Jan. 24, 1983	San Juan, PR $10,000
Nilit, Ltd., P.O. Box 276, Migdal Haemek, Israel, Peerless Ins. Co.	Jan. 6, 1983	Jan. 6, 1983	Norfolk, VA $10,000
Sea Containers Atlantic, Ltd., Argus Bldg., Wesley St., Hamilton, Bermuda; Ins. Co. of North America D 2/7/83	Aug. 26, 1976	Nov. 2, 1976	San Francisco, CA $10,000
Sea Containers, Inc., and its wholly owned sub: SC Pacific Ltd., and Sea Containers Ltd., One World Trade Center, Suite 2841, New York, NY; Ins. Co. of North America D 2/7/83	Mar. 26, 1973	Apr. 4, 1973	San Francisco, CA $10,000
Sofati Container Line (North America) Ltd., 245 Victoria Ave., Montreal, P.Q., Canada; Fireman's Fund Ins., Co	Nov. 4, 1982	Jan. 10, 1983	Ogdensburg, NY $10,000
Sunrise Shipping Agency, Inc. 310 S.W. 4th, Suite 1010, Portland, OR; Washington International Ins. Co	Jan. 25, 1983	Jan. 25, 1983	Portland, OR $10,000
Trans Asia Marine Corp., 60 Broad St., New York, NY; Federal Ins. Co D 1/28/83	Dec. 21, 1979	Dec. 21, 1979	New York Seaport $10,000
Union Carbide Caribe, Inc., 268 Munoz Rivera Ave, Banco de Ponce Bldg. 20th fl., San Juan, PR; Puerto Rican-American Ins., Co	Dec. 2, 1982	Dec. 15, 1982	San Juan, PR $10,000
West India shipping co. Inc., 153 E. Port Rd., Rivera Beach, FL; American Employers Ins. Co. (PB 9/24/62) D 9/24/82 [5]	Sept. 24, 1982	Sept. 24, 1982	Tampa, FL $10,000

[1] Surety is American Casualty Co. of Reading, PA.

[2] Surety is Potomac Ins. Co.

[3] Principal is Domatar Chemicals Ltd.

[4] Surety is Peerless Ins. Co.

[5] Surety is Hartford Accident & Indemnity Co.

(BON-3-10)

MARYLYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-51)

Reimbursable Services—Excess Cost of Preclearance Operations

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., March 1, 1983.

Notice is hereby given that pursuant to Section 24.18(d), Customs egulations (19 CFR 24.18(d)), the biweeekly reimbursable excess sts for each preclearance installation are determined to be as set rth below and will be effective with the pay period beginning arch 6, 1983.

Installation	Biweekly excess cost
ntreal, Canada	$16,610
ronto, Canada	31,765
ndley Field, Bermuda	8,699
ssau, Bahama Islands	16,336
ncouver, Canada	10,759
nnipeg, Canada	2,689
eport, Bahama Islands	9,777
gary, Canada	7,495
nonton, Canada	5,066

WILLIAM H. RUSSELL,
Comptroller.

[Published in the Federal Register, March 7, 1983 (48 FR 9611)]

(T.D. 83-52)

roval of public gauger performing gauging under standards and procedures required by Customs

otice is hereby given pursuant to the provisions of section 3 of the Customs Regulations (19 CFR 151.43) that the applica- of Camin & Corris Cargo Control, 56 Windham Loop, Staten d, New York 10314, to gauge imported petroleum and petrole- roducts in all Customs districts, in accordance with the provi- of section 151,43, Subpart C, of the Customs Regulations, is oved.

ted: March 2, 1983.

DONALD W. LEWIS
(For A. Piazza, Director,
Entry Procedures and Penalties Division).

(T.D. 83-53)

Drawback Contract—Burlap or other textile Material

The proposed Customs Regulations revision of Part 22 relating to drawback was published in the Federal Register, August 26, 1982. Sections 22.6 (a) through (i) of the regulations, relating to general drawback rates are being removed from the revision to the regulations, Part 191. These sections are not of sufficient general applicability to be included in the revision. However, no member of the public would be forfeiting any rights and benefits by their removal. As advised in the Notice of Proposed Rulemaking, 47 FR 37568, general drawback contracts would be published as Treasury Decisions designed to take the place of the eliminated sections. The following is one such contract.

File: DRA-1
215646
Date: March 2, 1983

MARILYN G. MORRISON,
Director, Carriers, Drawback,
and Bonds Division.

DRAWBACK CONTRACT UNDER 19 U.S.C. 1313(a) FOR ARTICLES MANUFACTURED WITH THE USE OF IMPORTED BAGS AND MEAT WRAPPERS

Drawback may be allowed on the exportation of burlap or other textile material manufactured with the use of imported burlap or other textile material, subject to the following special requirements:

(1) Each lot of imported material received by a manufacturer shall be given a lot number and kept separate from other lots until used. The records of the manufacturer shall show, as to each manufacturing lot or period of manufacture, the quantity of material used from each import lot and the number of each kind and size of bags or meat wrappers obtained. A certificate of manufacture shall be filed covering each manufacturing lot or period of manufacture.

(2) All bags or meat wrappers manufactured for the account of the same exporter during a specified period may be designated as one manufacturing lot and covered by one certificate of manufacture and delivery. All exported bags or meat wrappers shall be identified by the exporter with the certificate of manufacture covering their manufacture.

(3) The drawback allowance shall not exceed 99 percent of the duty paid on the imported material appearing in the exported bags or meat wrappers, unless the manufacturer desires an allowance for waste and so specifies in his statement. In such cases, the records of the manufacturer shall show, in addition to the above requirements, the value of the imported material, the quantity of waste incurred in the manufacture of each lot of bags or meat

wrappers, or during each period of manufacture, and the value of such waste, if any; and in liquidation the quantity of imported material which may be used as the basis for the allowance of drawback shall be reduced by the quantity of imported material which the value of the waste will replace.

(4) Each manufacturer or producer of articles covered by the above drawback rate shall submit to the regional commissioner where drawback entries will be filed, a statement in duplicate describing the methods used in the manufacture or production of the products involved and setting forth the records it agrees to keep for the purpose of complying with the drawback law and regulations and for providing all the data required for the proper liquidation of certificates of manufacture and drawback entries filed hereunder. If the statement shows that the methods and records described therein enable the manufacturer or producer to comply with the law and regulations, the regional commissioner shall approve the statement and promptly notify the applicant, in writing, of such action.

If drawback entries are to be liquidated at more than one regional office, two additional copies of the statement shall be required for each additional office. In such case, the regional commission at the place first listed in the drawback statement shall approve the statement, if that action is warranted, and promptly notify the applicant, in writing, of such action

Revised statements covering changes in drawback statements filed under this Treasury decision shall be handled in accordance with the previously discussed provisions.

The allowance of drawback on articles covered by this Treasury Decision shall be subjet to compliance with the applicable provisions of Part 191.

(T.D. 83-54)

Bonds

Approval and discontinuance of Carrier's Bonds, Customs Form 3587

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: March 2, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Al-Ways Air Freight, Inc., an IL Corp., 830 Supreme Dr., Bensenville, IL; air freight forwarder; American Manufacturers Mutual Ins. Co.	Jan. 31, 1983	Feb. 3, 1983	Chicago, IL $100,000
American Cargo Express Ltd., 4101 San Jacinto, Houston, TX; motor carrier; Old Republic Ins. Co. D 2/7/83	June 26, 1981	July 1, 1981	Houston, TX $25,000
Atkinson Intermodal Systems, Inc., 144 Pennsylvania Ave., Kearny, NJ; motor carrier; The Aetna Casualty & Surety Co.	July 23, 1982	Jan. 26, 1983	Newark, NJ $50,000
Bay State Express Co., Inc., 50 Terminal St., Charlestown, MA; motor carrier; Peerless Ins. Co.	Oct. 21, 1982	Oct. 21, 1982	Boston, MA $25,000
Bel's Produce Co., Inc., 11357 W. Vienna Rd., Montrose, MI; motor carrier; St. Paul Fire & Marine Ins. Co. (PB 12/26/80) D 1/12/83	July 29, 1982	Jan. 12, 1983	Laredo, TX $25,000
Bonney Motor Express, Inc., Rt. 460, P.O. Box 305, Windsor, VA; motor carrier; Integon Indemnity Corp. (PB 5/12/81) D 2/1/83 [1]	Jan. 31, 1983	Feb. 1, 1983	Norfolk, VA $25,000
Cardinal Container Inc., 500 Nordhoff Pl., Englewood, NJ; motor carrier; St. Paul Fire & Marine Ins. Co.	Jan. 18, 1983	Jan. 24, 1983	Newark, NJ $50,000
Dixie Carriers, Inc., P.O. Box 1537, Houston, TX; water carrier; Hartford Accident & Indemnity Co. (PB 2/8/68) D 1/24/83	Dec. 28, 1982	Jan. 24, 1983	Houston, TX $50,000
Drue Chrisman, Inc., U.S. 50 West, P.O. Box 264, Lawrenceburg, IN; motor carrier; Employers Ins. of Wausau	Jan. 13, 1983	Feb. 3, 1983	Cleveland, OH $50,000
Eastwood Carriers—See Popko Trucking Inc.			
Evans Transportation Co., Inc., 7[illegible]00 Rt. #13, Levittown, PA; motor carrier; American Motorists Ins. Co.	Jan. 19, 1983	Jan. 26, 1983	Phila., PA $25,000
FFE Transportation Services, Inc., P.O. Box 225888, Dallas, TX; motor carrier; Reliance Ins. Co. (PB 2/7/72) D 1/24/83 [2]	July 7, 1982	Jan. 24, 1983	Houston, TX $25,000
Wilbur G. Frazier, Sr. & Wilbur G. Frazier, Jr., 1500 So. Zarzamora, Rm. 10, San Antonio, TX; motor carrier; National Surety Corp. (PB 10/26/72) D 2/3/83 [3]	Oct. 26, 1982	Feb. 3, 1983	Laredo, TX $25,000
Glendorck Enterprises Inc., T/A Glenair Freight Co., P.O. Box 8625, B.W.I. Airport, MD; freight forwarder; Fireman's Fund Ins. Co.	Jan. 19, 1983	Jan. 31, 1983	Balt., MD $50,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Hill & Hill Truck Lines, P.O. Box 9698, Houston, TX; motor carrier; Lawyers Surety Corp. D 2/7/83	Mar. 1, 1980	Apr. 3, 1980	Houston, TX $25,000
Interstate System Steel Division Inc., P.O. Box 112, Murrysville, PA; motor carrier; Travelers Indemnity Co.	Jan. 2, 1983	Jan. 24, 1983	Pittsburgh, PA $25,000
Kleysen Transport Ltd., 1495 Pembina Hwy., Winnipeg, Manitoba, Canada; motor carrier; Transamerica Ins. Co.	Nov. 15, 1982	Feb. 4, 1983	Seattle, WA $25,000
Metropolitan Trucking, Inc., 75 Broad Ave., Fairview, NJ; motor carrier; St. Paul Fire & Marine Ins. Co.	Sept. 14, 1982	Jan. 26, 1983	Newark, NJ $150,000
Midwest Emery Freight System, Inc., Joliet Rd & 1st Ave., McCook, IL; motor carrier; Heritage Ins. Co. of America (PB 10/30/81) D 1/26/83 [5]	Oct. 30, 1982	Jan. 26, 1983	Chicago, IL $50,000
pen Road Express, Inc., 40 Lafayette St., Newark, NJ; motor carrier; Peerless Ins. Co.	Jan. 28, 1983	Feb. 1, 1983	Newark, NJ $50,000
enn's Best Inc., P.O. Box 2301, Elizabeth, NJ; motor carrier; Utica Mutual Ins. Co.	July 26, 1982	Aug. 30, 1982	Newark, NJ $50,000
ioneer Trucking, Inc., P.O. Box 849, Taylor, MI; contract motor; American Casualty Co. of Reading, PA D 1/24/83	June 11, 1982	July 28, 1982	Detroit, MI $50,000
pko Trucking Inc., div. of Eastwood Carriers, 250 Union St., Westfield, MA; motor carrier; St. Paul Fire & Marine Ins. Co.	Oct. 26, 1982	Jan. 18, 1983	Phila, PA $50,000
-Mar Terminal & Warehouse Co., Inc., 3710 S. California Ave., Chicago, IL; motor carrier; National Surety Corp.	Jan. 25, 1983	Jan. 31, 1983	Chicago, IL $35,000
uth End Cartage Corp. of DE; 4222 S Knox, Chicago, IL; motor carrier; National Surety Corp. (PB 1/19/82) D 1/24/83 [6]	Jan. 19, 1983	Jan. 24, 1983	Chicago, IL $35,000
rminal Consolidation Co. of Springfield, Inc., d.b.a. Terminal Consolidation & Springfield Piggyback, 2367—AA East Kearney, Springfield, MO; motor carrier; Peerless Ins. Co.	Jan. 1, 1983	Jan. 24, 1983	St. Louis, MO $50,000
insload & Transport, Inc., P.O. Box 874, Morgan City, LA; water carriers; t. Paul Fire & Marine Ins. Co. D 1/21/83	June 10, 1977	June 15, 1977	New Orleans, LA $50,000
n Diest Trucking, Inc., 250 W. First St., laremont, CA; motor carrier; South arolina Ins. Co.	Nov. 30, 1982	Jan. 27, 1983	Los Angeles, CA $50,000

tnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Williamson Truck Lines, Inc., Wilson, NC, motor carrier; U.S. Fidelity & Guaranty Co. D 1/24/83	Jan. 25, 1974	Feb. 26, 1974	Wilmington, NC $25,000

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[1] Surety is United National Ins. Co.
[2] Principal is Frozen Food Express, Inc.
[3] Principal is Wilbur G. Frazier, Sr. & Wilbur G. Frazier, Jr., dba: W. G. Frazier & Son.
[4] Surety is American Druggists Ins. Co.
[5] Surety is American Druggists Ins. Co.
[6] Surety is Northwestern National Ins. Co. of Milwaukee, WI.

BON-3-03

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-55)

Change of practice relating to the tariff treatment of moon boot shells imported with removable felt liners

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Change of Practice.

SUMMARY: This document changes the current established and uniform practice of separately classifying moon boot shells imported with an equal number of removable felt liners. Customs will now treat these articles as tariff entities pursuant to the doctrine of entireties, dutiable under various provisions of Schedule 7, Part 1, Subpart A, Tariff Schedules of the United States (TSUS). This change is based on Customs finding that the shells and liners are intended to be used as a unit and their individual identities are subordinated to the identity of the combined article.

EFFECTIVE DATE: June 7, 1983.

FOR FURTHER INFORMATION CONTACT: Donald F. Cahill, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-8181).

SUPPLEMENTARY INFORMATION:

BACKGROUND

By notice published in the Federal Register on January 25, 1982 (47 FR 3375), Customs solicited public comments regarding: (a) The interpretation of a provision in the Tariff Schedules of the United States (19 U.S.C. 1202) pertaining to imported footwear having foxing or a foxing-like band applied or molded at the sole and overlapping the upper; and (b) whether Customs should change its uniform and established practice of classifying shells for "moon boots", a type of footwear, imported with an equal number of removable liners as separate entities, dutiable individually, or whether the shells and liners should be classified as tariff entities pursuant to the doctrine of entireties. Interested parties were given until March 26, 1982, to submit comments on the proposal. Pursuant to a request to extend the period of time for the submission of comments, Customs published a notice in the Federal Register on March 22, 1982 (47 FR 12194), extending the period of time to April 26, 1982.

Because of the numerous substantive and conflicting comments received in response to the more significant issue of question (a) relating to "foxing", it is being treated separately from question (b) relating to moon boot shells and liners. The foxing issue will be the subject of another document to be published in a future Federal Register.

As indicated in the notice, moon boots are footwear which extend above the ankle and are designed to be worn over, or in lieu of, other footwear to protect against water, cold, or inclement weather. They may be imported as completed articles or the shells and liners may be imported unattached to be joined after importation to form the finished product.

In Customs Ruling No. 062041 dated August 6, 1979, Customs held that imported moon boot shells with separable liners are not entireties for tariff purposes, but rather are classifiable separately. This ruling was in accordance with the previous determination published in the Customs Bulletin as T.D. 67-118(7) in which Customs held that a removable felt liner imported with a boot is classifiable as a separate tariff entity.

Based upon Customs August 6, 1979 ruling, and liquidations covering entries of the same merchandise at various ports, an established and uniform practice of classifying imported moon boots with an equal number of removable liners as separate articles exists within the meaning of section 315(d), Tariff Act of 1930, as amended (19 U.S.C. 1315(d)).

However, in the case of *Donalds Ltd., Inc.* v. *United States*, 32 Cust. Ct. 310, C.D. 1619 (1954), in discussing the doctrine of entireties, the court stated that "if there are imported in one importation separate entities, which by their nature are obviously intended to be used as a unit, or to be joined together by mere assembly, and in such use or joining the individual identities of the separate entities are subordinated to the identity of the combined entity, duty will be imposed upon the entity they represent." It is this principle upon which Customs proposal to treat moon boot shells and liners as entireties is based.

ANALYSIS OF COMMENTS

Eleven comments were received in response to the proposed change of practice. Ten of the commenters were in favor of the proposal and one was opposed to the change.

The commenter opposed to the change argued the following:

> (1) The emphasis of the judicial determinations in this field is on separate function, use, and identity of entities in a combination. With respect to "moon boot removable liners", the function of the liners is distinguishable from the function of the boot. Liners provide extra warmth and comfort while boots themselves provide protection against the elements.
>
> (2) Liners possess a separate use and are complete in themselves in that they are capable of and are used as a slipper type of footwear worn indoors.
>
> (3) Liners maintain their separate identity even though imported and sold with moon boots.
>
> (4) Although not normally sold separately at retail, liners can be purchased separately by the consumer.

The commenters in favor of the proposal made the following points:

> (1) Moon boot shells and their liners are clearly designed to be used as a unit. The moon boot shell is incomplete without the lining. Absent the lining the inner stitching of the shell is typically exposed and the inner sole of plastic is uncushioned. Without the lining the cold weather protective qualities of the shell are inadequate.
>
> (2) The liners have no function apart from the shell other than perhaps incidentally as a makeshift foot warmer.
>
> (3) The general practice in the trade is to purchase liners in numbers equal to the number of shells produced.
>
> (4) Moon boot liners are purchased, packed, shipped, invoiced, imported, advertised, and retailed as units with moon boots shells.
>
> (5) Typical moon boot liners are unsuited for separate use by reason of their lack of durability, by their texture, and appearance.
>
> (6) Moon boot importers do not trade in liners separately.
>
> (7) Moon boot shells and their separable liners have no viable separate identity, except in combination with each other.
>
> (8) Moon boot liners are not designed to be worn around the house as a slipper, rather they are intended to facilitate drying of perspiration and any moisture which may have leaked into the boot.
>
> (9) Moon boot shells and liners function only as an entirety and each piece has no function other than its use in the combined moon boot.

After review of the comments, it is clear that the shells and liners involved are intended to be used as a unit and their separate identities are subordinated to the identity of the completed moon boot. Consequently, shells and liners are considered entireties within the principle set forth in the *Donalds* case, *supra*.

CHANGE OF PRACTICE

After careful analysis of the comments and further review of this matter, Customs practice of separately classifying moon boot shells with an equal number of liners is clearly erroneous. Accordingly, the proposal to treat these articles as tariff entities pursuant to the doctrine of entireties, dutiable under various sections of Schedule 7, Part 1, Subpart A, TSUS, is adopted. This change of practice shall be effective as to merchandise entered or withdrawn from warehouse for consumption on or after 90 days from the date of publication of this notice in the Federal Register.

Treasury Decision 67-118(7) and Customs ruling of August 6, 1979 are revoked, to the extent that they are inconsistent with this decision.

DRAFTING INFORMATION

The principal author of the document was Jesse V. Vitello, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

Dated: August 13, 1982.

ALFRED R. DE ANGELUS,
Acting Commissioner of Customs.

[Published in the Federal Register, March 9, 1983 (48 FR 9982)]

(19 CFR Part 19)

(T.D. 83-56)

Fee To Establish Container Stations

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to authorize Customs to implement a fee schedule to establish a container station. It provides that such a fee schedule will be published periodically to revise this fee to reflect increased costs. It also requires that a fee, which will remain in effect until revised, must accompany any new application to establish a container station after the effective date of this document.

These fees are necessary because a Federal agency is required to charge appropriate fees to recover the costs of services provided by that agency.

EFFECTIVE DATE: April 8, 1983.

FOR FURTHER INFORMATION CONTACT: John Holl, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5354).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Under 31 U.S.C. 9701, a Federal agency is required to charge appropriate fees to recover the costs of services provided by that agency. The fees must be fair and based on the costs to the Government, value to the recipient, public policy or interest served, and other pertinent facts.

Although imported merchandise ordinarily is subject to entry and the payment of duty at the time and place the merchandise arrives in the United States, entry and payment of duty may be postponed in certain circumstances. For example, merchandise may be removed from the place of arrival to a container station before entry and the payment of duty.

A container station is a secured area within the United States into which containers of merchandise may be moved for the purpose of opening the container and delivering the contents before any entry is filed or duty is paid. A container station is important because it serves as a central location at a port for processing containerized merchandise which otherwise could not be handled timely at the dock, wharf, pier, or bonded carrier's terminal. Sections 19.40 through 19.49, Customs Regulations (19 CFR 19.40-19.49), provide the procedure for the establishment and use of container stations.

Section 19.40, Customs Regulations (19 CFR 19.40), provides that a container station, independent of either the importing carrier or bonded carrier, may be established at any port or other area under the jurisdiction of a district director of Customs. To establish a container station, an application must be filed with, and approved by, the district director. However, even though the administrative costs to Customs to process the application are similar to an application to establish a bonded warehouse, no fee is presently required to accompany the application.

Before an application may be approved, Customs must—(1) Determine that the application is in proper form; (2) Survey the premises to determine that all physical requirements are met; (3) Perform a background investigation of the applicant and the applicant's officers and employees; (4) Prepare a report of that investigation; and (5) Review the application, survey, and background investigation report and prepare a response to the applicant.

PROPOSED RULE

On July 10, 1980, a notice was published in the Federal Register (45 FR 46442) proposing to amend sections 19.2, 19.3, 19.40, and

.12, Customs Regulations (19 CFR 19.2, 19.3, 19.40, 24.12)—(1) To
lete the reference in section 19.2(a) to the $80 fee required to ac-
mpany an application to establish a Customs bonded warehouse;
To provide in section 19.3(a) for a fee to accompany an applica-
n to alter a Customs bonded warehouse; (3) To proivide in sec-
n 19.40 for a fee to accompany an application to establish a con-
ner station; and (4) To provide in section 24.12(a) for publication
a general notice in the Federal Register and the Customs Bulle-
on or about August 31 of each year which will establish the fees
the next fiscal year.

The notice indicated that the fee schedule will be based on the
ual current costs to Customs of processing an application to es-
lish or to alter a Customs bonded warehouse, or to establish a
tainer station. These costs are related closely to Customs em-
yees' salaries and, therefore, are subject to change annually.
nterested parties were given until September 8, 1980, to submit
tten comments regarding the proposal.

DISCUSSION OF COMMENTS

ne comment was received regarding the proposed changes. The
nmenter suggested that when a general notice setting the fees
services provided is published in the Federal Register, Customs
vide for "the submission of comments on the fairness of the fees
posed to be charged and that such comments be given consider-
n before the final establishment of fees."

s indicated above, the fee schedule will be based on the actual
rent costs to Customs of processing an application to establish a
tainer station. The costs are directly related to the salary of
Customs officer performing the service and, therefore, are
ect to change annually. Therefore, Customs believes it is inap-
priate to entertain comments on the fairness of the fees on an
ual basis as this would merely result in additional administra-
expenses and delay in processing the general notice. Of course,
oms will consider any suggestions received to improve upon
procedures established by this document, including the fee
cture.

OTHER CHANGES

pon its review, Customs has made changes in the proposed
ndment. The notice proposed to amend the Customs Regula-
to increase the fee that must accompany an application to es-
sh a bonded warehouse, and to require a fee to accompany an
cation to alter an existing bonded warehouse or to establish a
iner station. However, this document pertains only to contain-
ations. Fees relating to bonded warehouses were included in a
ate document concerning changes in the supervision of those
houses which was published in the Federal Register on No-
er 1, 1982, as T.D. 82-204 (47 FR 49355). Therefore, only sec-

tion 19.40 is amended by the document. It is noted that this section was amended by T.D. 82-135, published in the Federal Register on July 27, 1982 (47 FR 32414), to provide that bonded carriers may transport containerized cargo in-bond to container stations at ports of destination.

The notice advised that a general notice would be published in the Federal Register and Customs Bulletin on or about August 31 of each year which would establish the fee for the next fiscal year.

This document amends the Customs Regulations to authorize Customs to implement a fee schedule to establish a container station. It provides that a general notice shall be published in the Federal Register and Customs Bulletin setting forth a fee schedule to be revised periodically to reflect increased costs to establish a container station. It also requires that a fee of $852.00 must accompany any new application to establish a container station after the effective date of this document. This fee will remain in effect until revised.

EXPLANATION

Customs has determined that the service to establish a container station is provided by the following Customs officers:

1. Clerk in the fifth step of a GS-5;
2. Inspector in the fifth step of a GS-11 (performing physical security);
3. Agent in the fifth step of a GS-12 (performing the investigation);
4. Administrator in the fifth step of a GS-13.

The fee charged for the service would be based upon the amount of time the service requires of each of the above Customs officers and equal the sum of individual charges plus a charge for mileage incurred by the applicable Customs officer in using a vehicle to visit the premises to perform his respective task. The average mileage associated with performing the necessary tasks in 60 miles. Currently, mileage costs are reimbursed at 20 cents per mile.

The (1) estimated length of time reflected in the fee schedule required by each of the above Customs officers to perform his or her respective service; (2) the adjusted hourly rate of pay utilized which is 137 percent of the hourly rate of pay of the respective Customs officer; (3) the charge of each respective service based on the hourly rate of pay of each Customs officer performing his or her respective service; and (4) the total fee for the service rendered rounded off to the nearest dollar follow:

FEE TO ESTABLISH A CONTAINER STATION

Customs officer	Time in hours	Adjusted hourly rate	Individual charge
1. Clerk	5	$9.98	$49.90
2. Inspector	14	18.28	255.92
3. Agent	22	21.92	482.24
4. Administrator	2	26.07	52.14

Therefore, the total fee to establish a container station is $852.00 ($840.00 for Customs officers fee plus $12.00 for mileage).

Section 24.17(d), Customs Regulations (19 CFR 24.17(d)), provides the computation for regular compensation for reimbursable charges. The charge shall be computed at a rate per hour equal to 137 percent of the hourly rate of regular pay of the particular employee. The ratio of the annual number of working hours charged to Customs appropriation to the net number of annual working days is 137 percent.

INAPPLICABILITY OF REGULATORY FLEXIBILITY ACT

This document is not subject to the provisions of sections 603 and 604 of Title 5, United States Code, relating to the Regulatory Flexibility Act, because it was the subject to a notice of proposed rulemaking published in the Federal Register before January 1, 1981, he effective date of the Act.

EXECUTIVE ORDER 12291

This document does not meet the criteria for a "major rule" as pecified in section 1(b) of E.O. 12291. Accordingly, no regulatory npact analysis has been prepared.

DRAFTING INFORMATION

The principal author of this document was Charles D Ressin, egulations Control Branch, Office of Regulations and Rulings, .S. Customs Service. However, personnel from other Customs of- es participated in its development.

LIST OF SUBJECTS IN 19 CFR PART 19

ustoms duties and inspection, imports, freight, container sta- ns.

AMENDMENT TO THE CUSTOMS REGULATIONS

Part 19, Customs Regulations (19 CFR 19), is amended as set forth below.

ALFRED R. DE ANGELUS,
Acting Commissioner of Customs.

Approved: February 17, 1983.
JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, March 9, 1983 (48 FR 9853)]

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

Section 19.40, Customs Regulations (19 CFR 19.40), is amended by designating the existing text as paragraph (a), revising that introductory text of newly designated paragraph (a), and adding a new paragraph (b) after the bond format to read as follows:

19.40 ESTABLISHMENT OF CONTAINER STATIONS.

(a) A container station, independent of either the importing carrier or bonded carrier, may be established at any port or portion of a port, or any other area under the jurisdiction of a district director upon the filing of an application therefor, accompanied by the fee required by paragraph (b) of this section, and its approval by the district director. The applicant also must post a bond in the following format in the sum of $25,000 or such larger amount as the district director shall determine:

* * * * * * *

(b)(1) Customs shall charge a fee to establish a container station, and publish a general notice in the Federal Register and Customs Bulletin setting forth a fee schedule, to be revised periodically to reflect increased costs, to establish the container station. The published revised fee schedule shall remain in effect until changed.

(2) The fee, rounded off to the nearest dollar, shall be calculated in accordance with section 24.17(d) of this chapter. The fee shall be based upon the amount of time the average service requires of the Customs officers performing the services.

(R.S. 251, as amended (19 U.S.C. 66), section 624, 46 Stat. 759 (19 U.S.C. 1624); 96 Stat. 1051 (31 U.S.C. 9701))

(T.D. 83-57)

Bonds

Approval and discontinuance of consolidated aircraft bonds (air carrier blanket bonds), Customs Form 7605

The following consolidated aircraft bonds have been approved or iscontinued as shown below. The symbol "D" indicates that the ond previously outstanding has been discontinued on the month, ay, and year represented by the figures which follow. "PB" refers o a previous bond, dated as represented by the figures in parenthe- es immediately following, which has been discontinued. If the pre- ious bond was in the name of a different company or if the surety as different, the information is shown in a footnote at the end of he list.

Dated: March 9, 1983.

Name of principal and surety	Date term commences	Date of approval	Filed with district director/area director/amount
epublic Airlines West, Inc., 7500 Airline Dr., Minneapolis, MN, Aetna Casualty & Surety Co. D 1/1/83	July 1, 1981	May 7, 1981	Minneapolis, MN $100,000
ansportes Aereos Nacionales, S.A., dba Tan Airlines, P.O. Box 52-2222 G.M.F., Miami, FL, American Casualty Co. of Reading, PA	Jan. 24, 1983	Jan. 28, 1983	New York Seaport $100,000

The foregoing principal has been designated a carrier of bonded merchandise.

BON-3-01

Marilyn G. Morrison,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-58)

Synopses of Drawback Decisions

The following are synopses of drawback rates issued October 6, 82, to November 9, 1983, inclusive, pursuant to sections 22.1 rough 22.5, inclusive, Customs Regulations.

In the synopses below are listed for each drawback rate approved der 19 U.S.C. 1313(b), the name of the company, the specified ar- les on which drawback is authorized, the merchandise which will used to manufacture or produce these articles, the factories where the work will be accomplished, the date the statement was signed, the basis for determining payment, the Regional Commissioner to whom the rate was forwarded, and the date it was forwarded.

Dated: March 9, 1983.

File: DRA-1-09.

Marilyn G. Morrison,
Director,
Carriers, Drawback and Bonds Division.

(A) Company: Advalloy, Inc.
Articles: Frames for semi-conductors
Merchandise: Iron-nickel sealing alloy; iron-nickel-cobalt sealing alloy
Factory: Palo Alto, CA
Statement signed: May 26, 1982
Basis of claim: Used in, less valuable waste
Rate forwarded to RC, Los Angeles (San Francisco Liquidation), November 3, 1982

(B) Company: American Can Co.
Articles: Cans, ends, coated sheets, tabs and other items made in a similar manner
Merchandise: Aluminum sheet in coils
Factories: Various factories as listed in manufacturer's statement
Statement signed: July 9, 1982
Basis of claim: Appearing in
Rate forwarded to RC, New York, November 3, 1982

(C) Company: American Metals Corp.
Articles: Coated, plated and painted metals cut to customer specification
Merchandise: Hot and cold rolled steel sheet; galvanized steel sheet; aluminum sheet, and black plate in sheet
Factory: Westlake, OH
Statement signed: August 4, 1982
Basis of claim: Appearing in
Rate forwarded to RC, New York, November 2, 1982

(D) Company: American Metals Co., Inc.
Articles: Coated, plated and painted metals cut to customer specification
Merchandise: Hot and cold rolled steel sheet; stainless steel sheet; galvanized steel sheet; aluminum sheet, and black plate in sheet
Factory: Marietta, GA
Statement signed: August 4, 1982
Basis of claim: Appearing in
Rate forwarded to RC, New York, November 2, 1982

(E) Company: Benchmark Carpet Mills, Inc.
Articles: Carpets
Merchandise: Bulk continuous filament polypropylene yarn
Factory: Cartersville, GA
Statement signed: July 22, 1982
Basis of claim: Used in
Rate forwarded to RC, Miami, October 26, 1982

(F) Company: CPC International Inc.
Articles: Peanut butter
Merchandise: Peanuts
Factories: Little Rock, AR; Portsmouth, VA; Santa Fe Springs, CA
Statement signed: September 15, 1982
Basis of claim: Appearing in
Rate forwarded to RC, New York, November 9, 1982

(G) Company: Campbell Soup Co.
Articles: Canned soups; canned food products; frozen food products, all for human consumption
Merchandise: Live chickens (spent fowl)
Factories: Various factories as listed in manufacturer's statement
Statement signed: September 8, 1982
Basis of claim: Used in, less valuable waste
Rate forwarded to RC, Boston (Baltimore Liquidation), November 9, 1982

(H) Company: Caterpillar Tractor Co.
Articles: Tractors; motor graders; scrapers; traxcavators; off-highway trucks; wheel loaders; log skidders
Merchandise: Various radial and bias tires
Factories: Aurora and Decatur, IL
Statement signed: September 15, 1982
Basis of claim: Appearing in
Rate forwarded to RC, Chicago, November 3, 1982

(I) Company: Chevron Chemical Co.
Articles: Lubricating oil additives
Merchandise: OLOA 267 zinc dithiophosphate
Factory: Belle Chasse, LA
Statement signed: July 7, 1982
Basis of claim: Used in
Rate forwarded to RC, New Orleans, October 27, 1982

(J) Company: Diamond Shamrock Corp.
Articles: Daconil 2787 (Technical Tetrachloroisophtalonitrile) and Bravo 500
Merchandise: Activated carbon and Isophthalonitrile
Factory: Houston, TX
Statement signed: July 22, 1982

Basis of claim: Used in
Rate forwarded to RC, New York, November 2, 1982

(K) Company: Donn Corp.
Articles: Wall, ceiling, and floor systems and components thereof
Merchandise: Cold rolled steel sheet, strip and blanks; galvanized steel sheet, strip and blanks; aluminum sheet, strip and blanks; and black plate in sheet, strip or blanks (all the foregoing painted and unpainted)
Factories: Westlake and Medina, OH; Stockton, CA
Statement signed: August 4, 1982
Basis of claim: Appearing in
Rate forwarded to RC, New York, November 2, 1982

(L) Company: E. I. du Pont de Nemours and Co.
Articles: Various green gold pigments
Merchandise: 2,4-dihydroxy quinoline
Factory: Newark, NJ
Statement signed: June 28, 1982
Basis of claim: Used in
Rate forwarded to RC, Boston (Baltimore Liquidation), October 18, 1982

(M) Company: E.I. du Pont de Nemours and Co.
Articles: Various Riston® polyester films
Merchandise: Polyester film base
Factory: Towanda, PA
Statement signed: June 10, 1982
Basis of claim: Appearing in
Rate forwarded to RC, Boston (Baltimore Liquidation), November 3, 1982

(N) Company: Durakool, Inc.
Articles: Relays, contactors, switches, and float liquid level control devices
Merchandise: Mercury
Factory: Elkhart, IN
Statement signed: October 27, 1982
Basis of claim: Used in
Rate forwarded to RCs, Chicago and New York, November 9, 1982

(O) Company: Theresa Friedman & Sons, Inc.
Articles: Preserves and purees
Merchandise: Strawberries, boysenberries and pineapple
Factory: Philadelphia, PA
Statement signed: July 6, 1982
Basis of claim: Used in
Rate forwarded to RC, New York, October 21, 1982

(P) Company: Heterochemical Corp.
Articles: Hetrazeen animal feed supplement
Merchandise: Menadione dimethylpyrimidinol bisulfite (MPB)
Factory: Valley Stream, NY
Statement signed: October 15, 1982
Basis of claim: Appearing in
Rate forwarded to RC, New York, November 9, 1982
Revokes: T.D. 66-49-F as amended by T.D.s 66-136-H, 67-202-K, and 77-123-L

(Q) Company: Monsanto Co.
Articles: 4-aminodiphenylamine (4-ADPA)
Merchandise: 4-nitrodiphenylamine (4-NDPA)
Factory: Sauget, IL
Statement signed: July 23, 1982
Basis of claim: Used in
Rate forwarded to RCs, Chicago and New York, October 29, 1982

(R) Company: Olin Corp.
Articles: Cupro-nickel cold rolled strip
Merchandise: Electrolytic copper cathodes
Factory: East Alton, IL
Statement signed: June 28, 1982
Basis of claim: Appearing in
Rate forwarded to RC, New York, October 13, 1982

(S) Company: Pennsylvania Dutch Co., Inc., Katherine Beecher Candies Div.
Articles: Butter toasted peanuts
Merchandise: Peanuts
Factory: Manchester, PA
Statement signed: September 30, 1982
Basis of claim: Used in
Rate forwarded to RC, Boston (Baltimore Liquidation), November 9, 1982

(T) Company: Pfizer, Inc.
Articles: Carbadox (Mecadox)
Merchandise: 2-quinoxaline carboxaldehyde dimethyl acetal 1,4-dioxide (DQX)
Factory: Brooklyn, NY
Statement signed: November 7, 1981
Basis of claim: Used in
Rate forwarded to RC, New York, October 26, 1982

(U) Company: Phelps Dodge Industries, Inc.
Articles: Copper products; copper alloy products
Merchandise: Electrolytic copper (various forms)
Factory: Various factories as listed in manufacturer's statement

Statement signed: June 18, 1982
Basis of claim: Appearing in
Rate forwarded to RC, New York, October 27, 1982
Revokes: T.D. 46212-F, as amended by T.D.s 50274-H, 50432-C, 55479-F, and 74-155-A

(V) Company: Schuylkill Metals Corp.
Articles: Lead and lead alloys
Merchandise: Lead-bearing materials on a pound for pound basis for lead content
Factories: Baton Rouge, LA; Mound City, MO; Plant City, FL
Statement signed: August 26, 1982
Basis of claim: Appearing in
Rate forwarded to RC, New Orleans, November 9, 1982

(W) Company: Teknor Apex Co.
Articles: Rubber tire retreading compounds, tread rubber (camelback)—die size, tread rubber in strip form, pre-cured tire treads (molded), tire repair materials, rubber floor mats, cutting boards and blocks (industrial and food/meat)
Merchandise: Rubber and rubber/carbon black masterbatches
Factory: Pawtucket, RI
Statement signed: March 16, 1982
Basis of claim: Appearing in
Rate forwarded to RC, Boston, October 6, 1982

(X) Company: Union Carbide Corp.
Articles: Polyethylene resins
Merchandise: High density polyethylene feedstocks
Factory: Port Lavaca, TX
Statement signed: July 26, 1982
Basis of claim: Appearing in
Rate forwarded to RC, New York, November 2, 1982

(Y) Company: Winter Garden Citrus Products Cooperative
Articles: Grapefruit and orange blend concentrate and pineapple and orange blend concentrate
Merchandise: Concentrated orange juice for manufacturing
Factory: Winter Garden, FL
Statement signed: August 27, 1982
Basis of claim: Used in
Rate forwarded to RC, Miami, October 27, 1982

(Z) Company: Xidex Corp.
Articles: Vesicular film, diazo film and phototool film
Merchandise: p-toluene sulfonic acid monohydrate; 2,5 diethoxy-4-morpholino-benzene diazonium tetrafluoroborate; 2,5 diisopropoxy-4-morpholino-benzene diazonium tetrafluoroborate; 2,4 dihy-

droxy benzoic acid ethanol amide; naphthol ASOL, resorcinol; and diazonium salt

Factories: Sunnyvale, CA; Holyoke, MA

Statement signed: January 8, 1982

Basis of claim: Used in

Rate forwarded to RC, Los Angeles (San Francisco Liquidation), November 2, 1982

* * * * * * *

Southern Gold Citrus Products, Inc., operating under T.D. 72-55-B as amended by T.D. 72-218-I, T.D. 75-245-N, and T.D. 76-300-P; and T.D. 78-233-X, has changed its name to Southern Gold Citrus Products, Food Products Div., the Seven-Up Company

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(T.D. 83-59)

Drawback Contract—Raw Sugar

The proposed Customs Regulations revision of Part 22 relating to drawback was published in the Federal Register, August 26, 1982. Sections 22.6 (a) through (i) of the regulations, relating to general drawback rates are being removed from the revision to the regulations, Part 191. These sections are not of sufficient general applicability to be included in the revision. However, no member of the public would be forfeiting any rights and benefits by their removal. As advised in the Notice of Proposed Rulemaking, 47 FR 37568, general drawback contracts would be published as Treasury Decisions designed to take the place of the eliminated sections. The following is one such contract.

Dated: March 4, 1983.

File: DRA-1.

MARILYN G. MORRISON,
Director, Carriers, Drawback and Bonds Division.

Drawback Contract Under 19 U.S.C. 1313(b) for Articles Manufactured With the Use of Raw Sugar

Drawback may be allowed under the provisions of section 313(b), Tariff Act of 1930, upon the exportation of hard or soft refined sugars and sirups manufactured from raw sugar, subject to the following special requirements:

(1) The drawback allowance shall not exceed 99 percent of the duty paid on a quantity of raw sugar designated by the refiner which contains a quantity of sucrose not in excess of the quantity required to manufacture the exported sugar or sirup, ascertained in the manner hereinafter set forth.

(2) The refined sugars and sirups shall have been manufactured with the use of duty-paid, duty-free, or domestic sugar, or combina-

tions thereof, within 3 years after the date on which designated sugar was received by the refiner, and shall have been exported within 5 years from the date of importation of the designated sugar.

(3) All granulated sugar testing by the polariscope 99.5° and over shall be deemed hard refined sugar. All refined sugar testing by the polariscope less than 99.5° shall be deemed soft refined sugar. All "blackstrap," "unfiltered sirup," and "final molasses" shall be deemed sirup.

(4) The imported duty-paid sugar selected by the refiner as the basis for the drawback claim (designated sugar) shall be of the same kind and quality as that used in the manufacture of the exported refined sugar or sirup and shall have been used within 3 years after the date on which it was received by the refiner. Duty-paid sugar which has been used at a plant of a refiner within 3 years after the date on which it was received by such refiner may be designated as the basis for the allowance of drawback on refined sugars or sirups manufactured at another plant of the same refiner.

(5) For the purpose of distributing the drawback in accordance with the provisions of section 313, Tariff Act of 1930, relative values shall be established between hard refined (granulated) sugar, soft refined (various grades) sugar, and sirups at the time of separation. The entire period covered by an abstract shall be deemed the time of separation of the sugars and sirups covered by such abstract.

(6) The sucrose allowance per pound on hard refined (granulated) sugar established by the liquidation of an abstract shall be applied to hard refined sugar commercially known as loaf, cut loaf, cube, pressed, crushed, or powdered sugar manufactured from the granualted sugar covered by the abstract.

(7) The sucrose allowance per gallon on sirup established by the liquidation of an abstract shall be applied to sirup further advanced in value by filtration or otherwise, unless such sirup is the subject of a special drawback rate.

(8) As to each lot of imported or domestic sugar used in the manufacture of refined sugar or sirup on which drawback is to be claimed, the raw stock records shall show the refiner's raw lot number, the number and character of the packages, the settlement weight in pounds, and the settlement polarization. Such records covering imported sugar shall show, in addition to the foregoing, the import entry number, date of importation, name of importing carrier, country of origin, the Government weight, and the Government polarization.

(9) The melt records shall show the date of melting, the number of pounds of each lot of raw sugar melted, and the full analysis at melting.

(10) There shall be kept a daily record of final products boiled showing the date of the melt, the date of boiling, the magma filling serial number, the number of the vacuum pan or crystallizer filling, the date worked off, and the sirup filling serial number.

(11) The sirup manufacture records shall show the date of boiling, the period of the melt, the sirup filling serial number, the number of barrels in the filling, the magma filling serial number, the quantity of sirup, its disposition in tanks or barrels and the refinery serial manufacture number.

(12) The refined sugar stock records shall show the refinery serial manufacture number, the period of the melt, the date of manufacture, the grade of sugar produced, its polarization, the number and kind of packages, and the net weight. When soft sugars are manufactured, the commercial grade number and quantity of each shall be shown.

(13) Each lot of hard or soft refined sugar and each lot of sirup manufactured, regardless of the character of the containers or vessels in which it is packed or stored, shall be marked immediately with the date of manufacture and the refinery manufacture number applied to it in the refinery records hereinbefore provided for and shown in the abstract from such records filed in the customhouse. If all the sugar or sirup contained in any lot manufactured is not intended for exportation, only such of the packages as are intended for exportation need be marked as prescribed above, provided there is filed with the district director immediately after such marking a statement showing the date of manufacture, the refinery manufacture number, the number of packages marked, and the quantity of sugar or sirup contained therein. No drawback shall be allowed in such case on any sugar or sirup in excess of the quantity shown on the statement as having been marked. If any packages of sugar or sirup so marked are repacked into other containers, the new containers shall be marked with the marks which appeared on the original containers and a revised statement covering such repacking and remarking shall be filed with the district director. If sirups from more than one lot are stored in the same tank, the refinery records shall show the refinery manufacture number and the quantity of sirup from each lot contained in such tank.

(14) An abstract from the foregoing records covering manufacturing periods of not less than 1 month nor more than 3 months, unless a different period shall have been authorized, shall be filed when drawback is to be claimed on any part of the refined sugar or sirup manufactured during such period. Such abstract shall be filed by each refiner with the district director at New York, except as to refineries located in California, Louisiana, Puerto Rico, or Hawaii, for which the abstracts shall be filed respectively with the district directors at San Francisco, New Orleans, San Juan, or Honolulu. The district directors at the ports mentioned shall liquidate the ab-

stracts filed with them and shall keep full and complete records of the kinds and quantities of refined sugars and sirups entitled to drawback on exportation and, upon proper request, shall issue extracts therefrom for use at other ports where drawback entries are filed covering exportations made of such refined sugars and sirups, and shall debit such records with the quantities covered by such extracts. The abstracts filed by each refinery shall be consecutively numbered by the refiner, shall be signed by the head refiner or superintendent or his first assistant, and shail be in the following form:

Abstract from the refinery records of ————, ———— located at ————, covering sugars melted and hard and soft refined sugars and sirups manufactured therefrom during the period from ———— ———— to ————.

Refiner's raw lot No.	Import entry No.	Packages		Pounds	Polarization	By whom imported or withdrawn	Date of importation	Date of receipt by refiner	Date of melt	Importing carrier	Country of origin
		No.	Kind								

MELT RECORD

[Number of pounds in each lot melted]

Lot No.	Pounds	Polarization	
		Degrees	Pounds sucrose

SIRUP STOCK RECORDS

Date of boiling	Refinery serial manufacture No.	Quantity of sirup in gallons	Pounds sucrose container therein

REFINED SUGAR STOCK RECORD

Refinery serial production No.	Date of manufacture	Hard or soft refined	Polarization and No.	Net weight in pounds

Recapitulation

Item 1. Sucrose in process at beginning of period .... Pounds.
Item 2. Sucrose melted during period.. Do.
Item 3. Sucrose in process at end of period .... Do.
Item 4. Sucrose used in manufacture .... Do.
Item 5. Sucrose contained in manufacture................................ Do.

Item 1 plus item 2, minus item 3, should equal item 4.

I, ———, the ——— refiner at the ——— refinery of ———, located at ———, do solemnly and truly declare that each of the statements contained in the foregoing abstract is true to the best of my knowledge and belief and can be verified by the refinery records, which have been kept in accordance with Treasury Decision 83-59 and which are at all times open to the inspection of officers of the customs.

Date ———.

———————

(Signature)

(15) The refiner shall file with each abstract a statement, in the following form, showing the average market values of the products specified in the abstract:

Market values of refined sugars and sirup for the period ——— to ——— covered by abstract No. ——:

Hard refined sugar (bulk)	Per pound.
Blackstrap or unfiltered sirup (bulk)	Per gallon.
Soft refined sugar (bulk) No. 1	Per pound.
Soft refined sugar (bulk) No. 2	Do.
Soft refined sugar (bulk) No. 3	Do.
Soft refined sugar (bulk) No. 4	Do.
Soft refined sugar (bulk) No. 5	Do.
Soft refined sugar (bulk) No. 6	Do.
Soft refined sugar (bulk) No. 7	Do.
Soft refined sugar (bulk) No. 8	Do.
Soft refined sugar (bulk) No. 9	Do.
Soft refined sugar (bulk) No. 10	Do.
Soft refined sugar (bulk) No. 11	Do.
Soft refined sugar (bulk) No. 12	Do.
Soft refined sugar (bulk) No. 13	Do.
Soft refined sugar (bulk) No. 14	Do.
Soft refined sugar (bulk) No. 15	Do.
Soft refined sugar (bulk) No. 16	Do.
Miscellaneous	

I, ———, (Official capacity) of the (Refinery), do solemnly and truly declare that the values shown above are true to the best of my knowledge and belief, and can be verified by our records.

Date ———.

———————

(Signature)

(16) At the end of each calendar month the refiner shall furnish to the district director at the port where the abstract is filed a statement showing the actual sales of sirup and the average market values of refined sugars for the calendar month.

(17) In the liquidation of abstacts the following example shall be followed in determining the sucrose allowance to be applied to the various products:

Example of Liquidation

	Pounds	Polarization	Pounds, sucrose
Stock in process at beginning of period	3,650,539	83.43	3,045,645
Raw sugar melted during period	73,185,789	96.65	70,735,032
			73,780,677
Less stock in process at end of period	3,632,470	87.59	3,181,680
Sucrose actually used in manufacture			70,598,997

1—Manufacture		2—Polarization	3—Market value	4—Sucrose allowance per unit	5—Total sucrose allowance
		Degrees	*Per pound*	*Pounds*	*Pounds*
Hard refined sugar	63,192,240	100.00	$0.053	1.04051625	65,752,553
Soft refined:					
No. 1	14,903	98.12	.053	1.04051625	15,507
No. 2	11,060	97.48	.052	1.02088	11,299
No. 3	5,500	94.40	.0505	991435	5,452
No. 4	4,500	93.84	.05	.981619	4,419
No. 5	19,900	90.67	.0495	.971803	19,334
No. 6	299,933	90.14	.049	.961987	288,539
No. 7	453,762	88.82	.0485	.952171	432,052
No. 8	1,887,936	87.86	.048	.942354	1,779,108
No. 9	342,591	87.56	.0475	.932538	319,477
No. 10	489,098	87.31	.047	.922722	451,301
No. 11	130,800	86.32	.0465	.912906	119,403
No. 12	210,100	86.41	.046	90309	189,739
No. 13	174,622	91.19	.0455	.893273	155,985
No. 14	539,158	85.45	.0455	.893273	481,615
			Per gallon		
Sirup (gallons)	214,687	(1)	.136	2.67	573,214
Total					70,598,997

[1] 4 pounds per gallon

Total market value of production (column 1 times column 3), $3,596,048.50. Sucrose used (70,598,997 pounds) divided by market value ($3,596,048.50) equals pounds sucrose allowable per $1 of market value or $19,632,382 pounds sucrose; this factor multipled by the market values in column 3 will produce the factors in column 4, which are the pounds of sucrose to be allowed per pound of sugar or gallon of sirup manufactured under this abstract, less 1 percent thereof. Quantities in column 1 multipled by the quantities in column 4 should equal the quantities in column 5.

TEST FOR LOSS

Sucrose in manufacture (column 1 times column 2) 68,077,389
——————— =96.43% or 3.57% loss.
Sucrose used in manufacture 70,598,998

(18) The certificate of delivery shall be in the following form:

Certificate of Delivery—Sugar and Sirup

No. ——

Certificate of delivery of ——————— manufactured by ——————— under abstract No. —— filed at the port of ———————.

Description	Quantity	Polarization

DESIGNATION OF IMPORTED SUGAR

Import entry No.	By whom imported or withdrawn from warehouse	Name of importing carrier	When imported	Where imported	Quantity of raw sugar (pounds)	Polarization	Sucrose (pounds)

I, ———, the ——— of ———, located at ———, declare that the sugar (or sirup) described in the within certificate of delivery was manufactured by said company at its refinery at ——— and is part of the sugar (or sirup) covered by abstract No. —, filed at the port of ——— and was delivered to ——— on or about ———, 19—, and that no other certificate of delivery has been issued covering the above merchandise; that the refinery and other records of the company verifying the statements contained in said abstract are now and at all times hereafter will be open to inspection by officiers of the customs.

I further declare that the above-designated imported sugar (upon which the duties have been paid) was received by said company on ——— and was used in the manufacture of sugar and sirup on ———.

Dated ———, 19—.

———————

(Signature)

(19) The drawback entry shall be in the following form:

Drawback entry for sugars and sirups

United States Customs Service,
Port of ———
Dated ———, 19—.

Entry for drawback on sugars and sirups exported under notices f exportation, filed by ———, said notices and the merchanlise covered thereby being particularly set forth below, together vith the designation of imported raw sugar containing sucrose of he quantity used in the manufacture of such merchandise, based n the relative value of the refined sugars and sirups manufacured during the period covered by abstract No. — (customs No. —) on file with the district director at the port of ———. Drawback claimed under Treasury Decision 83-59.

No. of notice of exportation	Exporting carrier	Date of clearance	Name of shipper	No. of packages	Quantity and description of exported merchandise

Designation of Imported Sugar

No. of import entry	By whom imported or withdrawn from warehouse	Name of importing carrier	When imported	Where imported	Quantity sugar (pounds)	Polarization	Sucrose (pounds)	Certificate of delivery No.

I, ———, the ——— of ———, located at ——— declare that the sugar (or sirup) described in this entry, was manufactured by said company at its refinery at ——— and is part of the sugar (or sirup) covered by abstract No. ——, filed at the port of ———; that the refinery and other records of the company verifying the statements contained in said abstract are now and at all times hereafter will be open to inspection by officers of the customs. I further declare that the above-designated imported sugar (upon which the duties have been paid) was received by said company on ——— and was used in the manufacture of sugar and sirup during the period covered by abstract No. ——, customs No. ——, on file with the district director at ———.

I further declare that the sugar or sirup specified herein was delivered to the above-named shippers.

Dated ———, 19—.

———————

(Signature)

(20) The declaration of exportation required on customs Form 7575 shall be made a part of the drawback entry.

(21) When an extract from an abstract from refinery records is required for use at a port other than the port where the abstract is liquidated, the extract shall be in the following form:

Extract from abstract from refinery records of sugar or sirup intended for exportation with benefit of drawback

United States Customs Service,
Port of ———,
Dated ———, 19—.

This is to certify that there is on record in this office an abstract from refinery record No. ——, customs No. ——, of ————, located at ————, covering the following-described merchandise manufactured during the period from ————, to ————, for which certificate of delivery No. —— to —— has been filed in this office.

Description	Quantity	Sucrose allowance per unit (1 percent to be deducted in duty statement on drawback entry)

SUGAR DESIGNATED BY THE REFINER AS THE BASIS FOR THE ALLOWANCE OF DRAWBACK

No. of import entry	By whom imported or withdrawn from warehouse	Name of importing carrier	When imported	Where imported	Quantity of sugar (pounds)	Polarization	Sucrose	Certificate of delivery

Date of receipt by refiner of above sugar ————.
Date of use by refiner of above sugar ————.
Date of delivery of refined sugar or sirup ————.
Delivered to ———— *(District Director).*
To be used at the port of ———— *(Comptroller).*

(22) Each manufacturer or producer of articles covered by the above drawback rate shall submit to the regional commissioner where drawback entries will be filed, a statement in duplicate describing the methods used in the manufacture or production of the products involved and setting forth the records it agrees to keep for the purpose of complying with the drawback law and regulations and for providing all the data required for the proper liquidation of certificates of manufacture and drawback entries filed hereunder. If the statement shows that the methods and records described therein enable the manufacturer or producer to comply with the law and regulations, the regional commissioner shall approve the statement and promptly notify the applicant, in writing, of such action.

If drawback entries are to be liquidated at more than one regional office, two additional copies of the statement shall be required for each additional office. In such case, the regional commissioner at the place first listed in the drawback statement shall approve the statement, if that action is warranted, and promptly notify the applicant, in writing, of such action.

Revised statements covering changes in drawback statements filed under this Treasury Decision shall be handled in accordance with the previously discussed provisions.

The allowance of drawback on articles covered by this Treasury Decision shall be subject to compliance with the applicable provisions of part 191.

(T.D. 83-60)

Bonds

Approval and discontinuance of Carrier's Bonds, Customs Form 3587

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: March 10, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Acme Truck Line, Inc., P.O. Box 183, Harvey, LA; motor carrier; National Surety Corp. (PB 12/19/81) D 2/7/83 [1]	Dec. 9, 1982	Feb. 7, 1983	**New Orleans, LA** **$50,000**
American Freight, 969 N. 2nd St., Philadelphia, PA; motor carrier; Washington International Ins. Co. (PB 7/17/81) D 2/1/83 [2]	Jan. 27, 1983	Feb. 1, 1983	**Phila, PA** **$25,000**
Can-Am Marine Transit Ltd., P.O. Box 790, Hudson, Quebec, Canada; motor carrier; Peerless Ins. Co.	Feb. 11, 1983	Feb. 18, 1983	**Detroit, MI** **$50,000**
Cleveland Freight Services International Inc., A/K/A: CFS International, 6828 Engle Rd., Middleburg Heights, OH; freight forwarder; Peerless Ins. Co.	Feb. 2, 1983	Feb. 17, 1983	**Cleveland, OH** **$50,000**

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Harold G. Cline, Inc., Harding Highway & DuPont Rd., Penns Grove, New Jersey; motor carrier; Empoyer's Ins. of Wausau	Jan. 12, 1983	Feb. 1, 1983	Phila, PA $50,000
Coastal Transport & Trading Co., Inc.—See RTC Transportation Inc.			
Commercial Motor Freight, Inc. of Indiana, 2141 S. High School Rd., P.O. Box 41719, Indianapolis, IN; motor carrier; United States Fidelity & Guaranty Co. D 2/9/83	Feb. 7, 1978	Feb. 21, 1978	Chicago, Ill. $35,000
Controlled Distribution Servics, Inc., 11 West St., Brooklyn, NY; motor carrier; Fireman's Fund Ins. Co. (PB 6/5/75) D 8/17/82 [3]	Aug. 17, 1982	Aug. 17, 1982	New York Seaport $100,000
Dietrich Leasing Ltd., 127 Erb St., St. Agatha, Ontario, Canada; motor carrier; Aetna Casualty & Surety Co.	Feb. 15, 1983	Feb. 18, 1983	Buffalo, NY $25,000
Everready Drayage Service, Inc., 118 Grange Rd., P.O. Box 4133, Port Wentworth, GA; motor carrier; The Travelers Indemnity Co.	Jan. 12, 1983	Feb. 3, 1983	Savannah, GA $25,000
Illinois-California Express, Inc., 510 E. 51st Ave., Denver, CO; motor carrier; Liberty Mutual Ins. Co. (PB 3/29/77) D 1/15/81 [4]	Jan. 6, 1981	Jan. 15, 1981	St. Louis, MO $50,000
Marine Sales, Inc., 835 Tchoupitoulas St., New Orleans, LA; motor carrier; St. Paul Fire & Marine Ins. Co.	Oct. 1, 1982	Jan. 29, 1983	New Orleans, LA $25,000
Mid-Western Transport Inc., P.O. Box 3763, Santa Fe Springs, CA; motor carrier; Employers Ins. of Wausau (PB 11/27/79) D 2/4/83 [5]	Jan. 26, 1983	Feb. 4, 1983	Los Angeles, CA $50,000
Richard Novigrod, 805 N. Cage Blvd., Pharr, TX; motor carrier; Gulf Ins. Co. D 2/9/83	Feb. 4, 1982	Feb. 16, 1982	Laredo, TX $25,000
Potties Transportation, Inc., P.O. Box 164, Carmel, ME; motor carrier; St. Paul Fire & Marine Ins. Co.	Dec. 27, 1982	Feb. 15, 1983	Portland, ME $50,000
RTC Transportation, Inc., & Coastal Transport & Trading Co., Inc., 3901 Jonesboro Rd., S.E., Forest Park, GA; motor carrier; Ins. Co. of North America (PB 2/25/82) D 2/7/83 [6]	Oct. 1, 1982	Feb. 7, 1983	Sanannah, GA $25,000
Regency Motor Freight, Inc., 26600 Van Born Rd., Dearborn Heights, MI; motor carrier; The Continental Ins. Co.	Feb. 3, 1983	Feb. 17, 1983	Milwaukee, WI $25,000
Shanahan Freight Co.—See TIV Enterprises Inc.			

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Ship Service, Inc., 430 Texas Ave., Texas City, TX; motor carrier; Safeco Ins. Co. of America (PB 1/26/81) D 1/26/83 [7]	Jan. 26, 1983	Jan. 26, 1983	Houston, TX $25,000
Southern Intermodal Logistics, Inc., 2071 E. Victory Dr., Savannah, GA; motor carrier; Aetna Casualty & Surety Co. (PB 12/11/75) D 12/24/80 [8]	Dec. 18, 1982	Dec. 18, 1982	Savannah, GA $25,000
State Transportation, Inc., P.O. Box 1349, Portsmouth, NH; motor carrier; Hartford Accident & Indemnity Co.	Jan. 25, 1983	Feb. 3, 1983	Portland, ME $50,000
Sunco Carriers, Inc., P.O. Box 2811, Lakeland, FL; motor carrier; Integon Indemnity Corp.	Oct. 26, 1982	Feb. 1, 1983	Tampa, FL $25,000
Super Transportation, Inc., 5861 Penbrook Rd., Hollywood, FLA; motor carrier; Old Republic Ins. Co.	Dec. 13, 1982	Dec. 13, 1982	Miami, FL $25,000
T.I.M.E.-D.C., Inc., 2598 74th St., Lubbock, TX; motor carrier; Lawyers Surety Corp. D 2/18/83	Aug. 10, 1979	Oct. 22, 1979	Laredo, TX $25,000
TIV Enterprises Inc., T/A: Shanahan Freight Co., 1649 Haddon Ave., Camden, NJ; motor carrier; American Casualty Co. of Reading, PA	Jan. 31, 1983	Feb. 3, 1983	Phila, PA $100,000
Trinity Transport, Inc., 701 N. Federal Hwy, Dania, FL; motor carrier; Old Republic Ins. Co.	Dec. 16, 1982	Dec. 16, 1982	Miami, FL $25,000
Valley Parcel Service, Inc., 1400 Del Webb Bldg., Fresno, CA; motor carrier; Fireman's Fund Ins. Co.	Dec. 1, 1982	Feb. 15, 1983	San Francisco, CA $25,000
Viking Freight System, Inc., 3405 Victor St., Santa Clara, CA; motor carrier; Industrial Indemnity Co. (PB 12/3/81) D 2/7/83 [9]	Dec. 29, 1982	Feb. 7, 1983	San Francisco, CA $25,000
World Ship Supply, Inc., 1206 Magazine St., New Orleans, LA; motor carrier; Fidelity & Deposit Co. of MD	Jan. 13, 1983	Feb. 9, 1983	New Orleans, LA $25,000

[1] Surety is The Continental Ins. Co.
[2] Principal is American Freight Corp.; Surety is American Employers Ins. Co.
[3] Principal is Container Distributing Services, Inc.; Surety is Peerless Ins. Co.
[4] Surety is Lumbermen's Mutual Casualty Co.
[5] Surety is St. Paul Fire & Marine Ins. Co.
[6] Surety is Continental Casualty Co.
[7] Surety is The Hanover Ins. Co.
[8] Surety is American Druggist's Ins. Co.
[9] Surety is Fireman's Fund Ins. Co.

BON-3-03

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-61)

19 CFR Part 133.12

AGENCY: Customs Service, Treasury.

ACTION: Notice of Recordation of Trade Name: THE BAYER COMPANY.

SUMMARY: On September 14, 1982, a notice of application for the recordation under section 42 of the Act of July 15, 1946, as amended (15 U.S.C. 1124), of the trade name "THE BAYER COMPANY" was published in the Federal Register (47 FR 40519). The notice advised that prior to final action on the application, filed pursuant to section 133.12, Customs Regulations (19 CFR 133.12), consideration would be given to relevant data, views, or arguments submitted in opposition to the recordation and received not later than November 14, 1982. No responses were received in opposition to the application.

The name "THE BAYER COMPANY" is hereby recorded as the trade name used by Sterling Drug Inc., a corporation organized under the laws of the State of Delaware, 90 Park Avenue, New York, New York 10016. The trade name is used in connection with pharmaceuticals manufactured in Canada, West Indies and the United States. Sterling Drug Ltd. of Aurora, Canada, is authorized to use the trade name.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5765).

Dated: March 10, 1983.

DONALD W. LEWIS,
Director,
Entry Procedures and Penalties Division.

[Published in the Federal Register, March 15, 1983 (48 FR 11003)]

(T.D. 83-62)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New

York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-19 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Brazil cruzeiro:	
February 1-2, 1983	$0.003633
February 3-4, 1983	.003570
Mexico peso:	
February 1, 1983	.006732
February 2, 1983	.006667
February 3, 1983	.006734
February 4, 1983	.006718
United Kingdom pound:	
February 1, 1983	1.5235
February 2, 1983	1.5135
February 3-4, 1983	1.5245

(LIQ-03-01 O:C:E)

Dated: February 4, 1983.

Angela DeGaetano,
Chief.
Customs Information Exchange.

(T.D. 83-63)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-19 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Brazil peso:	
February 7-10, 1983	$0.003570
February 11, 1983	.003490
Mexico peso:	
February 7, 1983	.006718
February 8, 1983	.006684
February 10, 1983	.005587

Republic of South Africa	
February 7, 1983	.88100
February 8, 1983	.88350
Sri-Lanka rupee:	
February 11, 1983	.043365
United Kingdom pound:	
February 7, 1983	1.5340
February 8, 1983	1.5365
February 9, 1983	1.5410
February 11, 1983	1.5405

(LIQ-03-01 O:C:E)

Dated: February 11, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-64)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to he Secretary of the Treasury by the Federal Reserve Bank of New ork, pursuant to section 522(c), Tariff Act of 1930, as amended (31 .S.C. 372(c)), and reflect variances of 5 per centum or more from e quarterly rate published in Treasury Decision 83-19 for the fol- wing countries. Therefore, as to entries covering merchandise ex- rted on the dates listed, whenever it is necessary for Customs rposes to convert such currency into currency of the United ates, conversion shall be at the following rates.

Argentina cruzeiro:	
February 14-16, 1983	$0.003490
February 17-18, 1983	.003408
Sri-Lanka rupee:	
February 14-18, 1983	.043365
United Kingdom pound:	
February 14, 1983	1.5385
February 15, 1983	1.5410

LIQ-03-01 O:C:E)

ated: February 18, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-65)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-19 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Monday, February 21, 1983, Holiday use rates for 2/18/83.

Brazil cruzeiro:	
February 22-25, 1983	$0.002622
Sri Lanka rupee:	
February 22-24, 1983	.043563
February 25, 1983	.043554
United Kingdom pound:	
February 22, 1983	1.5215
February 23, 1983	1.5330
February 24, 1983	1.5275
February 25, 1983	1.5270

(LIQ-03-01 O:C:E)

Dated: February 25, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-66)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-19 for the fol-

owing countries. Therefore, as to entries covering merchandise ex-
orted on the dates listed, whenever it is necessary for Customs
urposes to convert such currency into currency of the United
tates, conversion shall be at the following rates.

Brazil cruzeiro:	
February 28, 1983	$0.002622
Mexico peso:	
February 28, 1983	.005882
Sri Lanka rupee:	
February 28, 1983	.043554
United Kingdom pound:	
February 28, 1983	1.5115

(LIQ-03-01 O:C:E)

Dated: February 28, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-67)

oreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section
2(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certi-
d buying rates for the dates and foreign currencies shown below.
e rates of Exchange, based on these buying rates, are published
the information and use of Customs officers and others con-
rned pursuant to Part 159, Subpart C, Customs Regulations (19
R 159, Subpart C).

Argentina peso:	
February 1-4, 1983	$0.000020
Chile peso:	
February 1-4, 1983	.013298
Colombia peso:	
February 1-3, 1983	.014004
February 4, 1983	.013968
Greece drachma:	
February 1, 1983	.011898
February 2-3, 1983	.011862
February 4, 1983	.011898
Indonesia rupiah:	
February 1-3, 1983	.001434
February 4, 1983	.001430

Israel shekel:	
February 1, 1983	.027693
February 2, 1983	.027647
February 3, 1983	.027563
February 4, 1983	.027457
Peru sol:	
February 1-3, 1983	.000948
February 4, 1983	.000934
South Korea won:	
February 1, 1983	.001331
February 2-4, 1983	.001329

(LIQ-03-01 O:C:E)

Dated: February 4, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-68)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of Exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
February 7-11, 1983	$0.000020
Chile peso:	
February 7-10, 1983	.013298
February 11, 1983	.012979
Colombia peso:	
February 7-11, 1983	.013968
Greece drachma:	
February 7, 1983	.011912
February 8, 1983	.012034
February 9, 1983	.012026
February 10, 1983	.012019
February 11, 1983	.012034
Indonesia rupiah:	
February 7-10, 1983	.001430

February 11, 1983	.001428
Israel shekel:	
February 7-8, 1983	.027255
February 9, 1983	.027130
February 10-11, 1983	.027049
Peru sol:	
February 7-10, 1983	.000934
February 11, 1983	.000913
South Korea won:	
February 7-11, 1983	.001329

(LIQ-03-01 O:C:E)

Dated: February 11, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-69)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of Exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
February 14-18, 1983	$0.000020
Chile peso:	
February 14-18, 1983	.012979
Colombia peso:	
February 14-18, 1983	.013968
Greece drachma:	
February 14, 1983	.011912
February 15, 1983	.012012
February 16, 1983	.011979
February 17, 1983	.012012
February 18, 1983	.011940
Indonesia rupiah:	
February 14-18, 1983	.001428
Israel shekel:	
February 14-15, 1983	.027049
February 16, 1983	.027020

February 17-18, 1983	.026947
Peru sol:	
February 14-18, 1983	.000913
South Korea won:	
February 14-18, 1983	.001329

(LIQ-03-01 O:C:E)

Dated: February 18, 1983.

ANGELA DEGAETANO,
Chief.
Customs Information Exchange.

(T.D. 83-70)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of Exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Monday, February 21, 1983, Holiday use rates for 2/18/83.

Argentina peso:	
February 22-24, 1983	$0.000020
February 25, 1983	.000017
Chile peso:	
February 22-24, 1983	.012739
February 25, 1983	.012422
Colombia peso:	
February 22-25, 1983	.013829
Greece drachma:	
February 22, 1983	.011983
February 23, 1983	.011912
February 24, 1983	.011990
February 25, 1983	.011976
Indonesia rupiah:	
February 22-24, 1983	.001426
February 25, 1983	.001423
Israel shekel:	
February 22, 1983	.026674
February 23, 1983	.026681

February 24, 1983	.026469
February 25, 1983	.026504
Peru sol:	
February 22-24, 1983	.000902
February 25, 1983	.000892
South Korea won:	
February 22, 1983	.001329
February 23, 1983	.001329
February 24-25, 1983	.001329

(LIQ-03-01 O:C:E)

Dated: February 25, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-71)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of Exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
February 28, 1983	$0.000017
Chile peso:	
February 28, 1983	.012422
Colombia peso:	
February 28, 1983	.013829
Greece drachma:	
February 28, 1983	.011962
Indonesia rupiah:	
February 28, 1983	.001423
Israel shekel:	
February 28, 1983	.026371
Peru sol:	
February 28, 1983	.000892
South Korea won:	
February 28, 1983	.001329

(LIQ-03-01 O:C:E:)

Dated: February 28, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

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19 CFR Part 162

(T.D. 83-72)

SUMMARY FORFEITURE AND DISPOSITION OF CONTROLLED SUBSTANCES

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide that: (1) certain controlled substances which are imported into the United States without proper entry documentation may be seized and summarily forfeited to the United States; and (2) certain notice procedures are inapplicable to the disposition of such controlled substances.

These amendments are being made to eliminate the unnecessary and costly storage of large quantities of controlled substances.

EFFECTIVE DATE: March 18, 1983. These amendments were previously published as interim regulations, effective on May 11, 1982.

FOR FURTHER INFORMATION CONTACT: Steven L. Basha, Office of the Chief Counsel, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, (202-566-2482); or David Goldfarb, Assistant Regional Counsel, U.S. Customs Service, 99 S.E. 5th Street, Miami, Florida 33131, (305-350-4321).

SUPPLEMENTARY INFORMATION:

BACKGROUND

During the last few years, Customs has found it increasingly difficult to store and safeguard controlled substances that have been seized for violation of drug and/or customs laws. Accordingly, by T.D. 82-89, published in the Federal Register on May 14, 1982 (47 FR 20753), Customs issued interim regulations to provide that: (1) certain controlled substances which are imported into the United States without proper entry documentation may be seized and summarily forfeited to the United States; and (2) certain notice procedures are inapplicable to the disposition of such controlled substances. Prior to the interim regulations, section 162.45, Customs Regulations (19 CFR 162.45), required Customs to retain seized controlled substances for at least three weeks, during which time notice of their impending forfeiture was given. The three week retention necessitated the storage of the controlled substances in secure areas because of their illicit value and dangerous propensities. The problem of storage and security of seized drugs has become acute in Customs regions that have large scale drug smuggling activity. For example, the Miami, Florida, Customs Region (Southeast Region) seized over 3,400,000 pounds of marihuana in fiscal year 1981. The cost to the Government in providing secure storage for such large quantities of drugs has become excessive. Additionally, the storage of large quantities of these items often interferes with the efficient operation of other Customs business.

The Controlled Substances Act (21 U.S.C. 801, *et seq.*) and the Controlled Substances Import and Export Act (21 U.S.C. 951, *et seq.*) deem illegally imported Schedule I controlled substances (as defined in 21 U.S.C. 802(6) and 812) to be contraband that is summarily forfeited to the United States (21 U.S.C. 881(f) and 965). The Supreme Court has held that contraband is not required to be returned to the person from whom it is seized. *Trupiano v. United States*, 334 U.S. 699, 710 (1948); *United States v. Jeffers*, 342 U.S. 48, 54 (1951).

Accordingly, because illegally imported Schedule I substances are summarily forfeited to the United States upon seizure, there is no purpose served in storing such substances, or notifying the public of Customs intention to dispose of such substances. The public notice provision of section 162.45 is included in the regulations for the benefit of those parties who might have a legitimate interest in seized property, and who might wish to file a claim for such property pursuant to section 162.47, Customs Regulations (19 CFR 162.47). The fact that seized Schedule I controlled substances are deemed contraband and are summarily forfeited to the Government precludes any claim under section 162.47.

COMMENTS

Although T.D. 82-89 specifically invited written comments on the interim regulations, none were received.

CHANGES TO INTERIM REGULATIONS

Customs has determined to adopt the interim regulations as permanent rules with the only substantive change being the addition of a sentence at the end of section 162.45a, Customs Regulations (19 CFR 162.45a). That sentence provides that when seized controlled substances are required as evidence in a court proceeding they hall be preserved to the extent and in the quantities necessary for hat purpose.

INAPPLICABILITY OF DELAYED EFFECTIVE DATE PROVISIONS

T.D. 82-89 stated that, because of the acute storage problem associated with large quantity seizures of controlled substances, and because 21 U.S.C. 881(f) and 965 deem illegally imported Schedule I controlled substances to be contraband that is summarily forfeited to the United States, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure were impracticable, unnecessary, and contrary to the public interest. T.D. 82-89 further stated that, pursuant to 5 U.S.C. 553(d)(3), good cause existed for dispensing with a delayed effective date. For the same reasons, and for the reason that the interim regulations have been in effect since May 11, 1982, good cause exists for dispensing with a delayed effective date for the final rule.

EXECUTIVE ORDER 12291

This amendment is not a "major rule" as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

REGULATORY FLEXIBILITY ANALYSIS

T.D. 82-89 contained a certification pursuant to the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that these regulations will not have a significant economic impact on a substantial number of small entities. The same certification is applicable to this document. Accordingly, regulatory flexibility analyses are not required.

DRAFTING INFORMATION

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

LIST OF SUBJECTS IN 19 CFR PART 162

Administrative practice and procedure, Law enforcement, Penalties, Search warrants, Seizures and forfeitures, Imports, Customs duties and inspection.

AMENDMENTS TO THE REGULATIONS

Part 162, Customs Regulations (19 CFR Part 162), is amended as set forth below.

WILLIAM VON RAAB,
Commissioner of Customs.

Approved: March 3, 1983.

JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, March 18 1983 (48 FR 11422)]

PART 162—RECORDKEEPING, INSPECTION, SEARCH, AND SEIZURE

1. The section heading and paragraph (b) of § 162.45, Customs Regulations (19 CFR 162.45(b)), are amended to read as follows:

§ 162.45 Summary forfeiture where value not over $10,000: Property other than Schedule I controlled substances. Notice of seizure and sale.

* * * * * * *

(b) *Publication.* (1) If the appraised value of any property in one seizure from one person other than Schedule I controlled substances (as defined in 21 U.S.C. 802(6) and 812) exceeds $250, the notice shall be published in a newspaper of general circulation in the Customs district and the judicial district in which the property was seized for at least three successive weeks.

(2) In all other cases, except for Schedule I controlled substances (see § 162.45a), the notice shall be published by posting in a conspicuous place accessible to the public in the customhouse nearest the place of seizure and in the customhouse at the headquarters port for the Customs district, with the date of posting noted thereon, and shall be kept posted for at least three successive weeks. Articles of small value of the same class or kind included in two or more seizures shall be advertised as one unit.

* * * * * * *

2. Part 162, Customs Regulations (19 CFR Part 162), is amended by adding a new § 162.45a, to read as follows:

§ 162.45a Summary forfeiture of Schedule I controlled substances.

The Controlled Substances Act (84 Stat. 1242, 21 U.S.C. 801) provides that all controlled substances in Schedule I (as defined in 21 U.S.C. 802(6) and 812) that are possessed, transferred, sold, or offered for sale in violation of the Act shall be deemed contraband and seized and summarily forfeited to the United States (21 U.S.C. 881(f)). By reference the Controlled Substances Import and Export Act (21 U.S.C. 951) incorporates this contraband forfeiture provision. See 21 U.S.C. 965. Accordingly, in the case of a seizure of Schedule I controlled substances, the appropriate Regional Commissioner of Customs or his designee shall contact the appropriate Drug Enforcement Administration official responsible for issuing permits authorizing the importation of such substances (see 21 CFR 1312). If upon inquiry the Regional Commissioner or his designee is notified that no permit for lawful importation has been issued, he shall declare the seized substances contraband and forfeited pursuant to 21 U.S.C. 881(f). Inasmuch as such substances are Schedule I controlled substances, the notice procedures set forth in section 162.45 are inapplicable. When seized controlled substances are required as evidence in a court proceeding, they shall be preserved to the extent and in the quantities necessary for that purpose.

3. Section 162.63, Customs Regulations (19 CFR 162.63), is amended to read as follows:

§ 162.63 Arrests and seizures.

Arrests and seizures under the Controlled Substances Act (84 Stat. 1242, 21 U.S.C. 801), and the Controlled Substances Import and Export Act (84 Stat. 1285, 21 U.S.C. 951), shall be handled in the same manner as other Customs arrests and seizures. However, Schedule I controlled substances (as defined in 21 U.S.C. 802(6) and 812) imported contrary to law shall be seized and forfeited in the manner provided in the Controlled Substances Act (21 U.S.C. 881(f)). See section 162.45a.

(Sec. 511(d), 1016, 84 Stat. 1276 as amended, 1291; 21 U.S.C. 881(d), 966)
(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

(T.D. 83-73)

Drawback Contract (Rate)

There follows an approved drawback contract (rate). Anyone who can comply with the conditions of the contract may adhere to it by notifying a Regional Commissioner of Customs in writing of the intention to do so and providing him with the following information:

1. Name and address of adherent;
2. Factories which will operate under the contract;
3. If a corporation, the names of officers or persons with power of attorney who will sign drawback documents on behalf of adherent.

This contract is designed to simplify drawback procedures for certain common manufacturing operations. It of course does not preclude or limit the use of individual contracts. This contract revokes and supersedes T.D. 80-267, effective the date stamped below, without prejudice to any existing claims. Any person currently operating under T.D. 80-267 will be automatically covered by this superseding contract (which includes all privileges of T.D. 80-267).

Dated: March 15, 1983.

File: 215691.

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

DRAWBACK CONTRACT UNDER 19 U.S.C. 1313(b), FINISHING PROCESSES FOR DESIGNATED PIECE GOODS

Imported merchandise or drawback products to be designated as the basis for the allowance of drawback on the exported products.	Duty-paid, duty-free, or domestic merchandise of the same kind and quality as that designated which will be used in the manufacture of the exported products.
Piece goods.	Piece goods.

The piece goods which we propose to use in manufacture will be the same kind and quality as the piece goods which we will designate as the basis of claim for drawback, and are used interchangeably by us without change in manufacturing processes or resultant products, byproducts, or wastes.

We do ask that some tolerances between imported-designated piece goods and the used-exported piece goods be permitted to accommodate variations which are normally found in piece goods. These tolerances are no greater than the tolerances generally allowed in the industry for piece goods of the same kind and quality:

(1) We propose that there be allowed a 4-percent weight tolerance, and the piece goods which we propose to use in manufacture will be not more than 4-percent lighter or heavier than the imported piece goods which will be designated;

(2) We propose that there be allowed a tolerance of 4-percent in the aggregate thread count per square inch, and the piece goods we propose to use in manufacture will have an aggregate thread count within 4-percent, more or less of the aggregate thread count of the imported piece goods which will be designated.

In each case, the average yarn number of the domestic piece goods will be the same or greater than the average yarn number of the imported piece goods which we propose to designate, and in each case, the substitution and tolerance will be employed only within the same family of fabrics, i.e. print cloth for print cloth, gingham for gingham, greige for greige, dyed for dyed, bleached for bleached, etc.

The piece goods used in manufacture of the exported articles will be designated as containing the identical percentage of identical fibers as the piece goods designated as the basis for allowance of drawback; for example, piece goods containing 65 percent cotton and 35 percent dacron will be designated against the use of piece goods shown to contain 65 percent cotton and 35 percent dacron. The actual fiber composition may vary slightly from that described on the invoice or other acceptance of the fabric as having the composition described on documents in accordance with trade practices.

It is further understood and agreed that the substituted piece goods which we use in the manufacture of articles for exportation with drawback will be so similar in quality to the imported piece goods which we will designate for the basis of allowance of drawback, that the piece goods used, if imported, would have been subject to the same or greater amount of duty as was paid on the imported designated piece goods. We understand, however, that differences in value resulting from the factors other than quality, as for example, price fluctuations, will not preclude an allowance of drawback.

EXPORTED ARTICLES ON WHICH DRAWBACK WILL BE CLAIMED

Finished piece goods.

GENERAL STATEMENT

We process piece goods for our own account. We may process piece goods for the account of another producer or another producer may process piece goods for our account under contract within the principal and agency relationship outlined in T.D. 55027(2) and 55207(1).

PRODUCTION

Piece goods are subjected to any one of the following finishing productions:

1. Bleaching,
2. Mercerizing,
3. Dyeing,
4. Printing,
5. A combination of the above, or
6. Any additional finishing processes.

MULTIPLE PRODUCTS-RELATIVE VALUES

Not applicable.

WASTE

Rag waste may be incurred in our operations. Our records shall show the quantity of rag waste, if any, and its value. In instances where rag waste occurs and it is impractical to account for the actual quantity of rag waste incurred, it shall be assumed in liquidation that such rag waste constituted 2 precent of the piece goods put into the finishing processes.

SHRINKAGE, GAIN, AND SPOILAGE

Our records shall show the yardage lost by shrinkage or gained by stretching during manufacture, and the quantity of remnants resulting and of spoilage incurred, if any.

PROCEDURES AND RECORDS MAINTAINED

We will maintain records to establish:

1. The identity and specifications of the merchandise we designate;
2. The quantity of merchandise of the same kind and quality as the designated merchandise we used to produce the exported articles;
3. That, within 3 years after receiving it at our factory, we used the designated merchandise to produce articles. During the same 3-year period, we produced the exported articles.

We realize that to obtain drawback we must establish that the completed articles were exported within 5 years after the importation of the imported merchandise.

Our records establishing our compliance with these requirements will be available for audit by Customs during business hours. We understand that drawback is not payable without proof of compliance with title 19, United States Code, section 1313(b), and Part 191 of the Customs Regulations.

INVENTORY PROCEDURES

Our inventory procedures will show how we will satisfy the legal requirements discussed under the heading "Procedures and Records Maintained." We understand that if our records do not show that we satisfy those legal requirements, drawback cannot be paid.

BASIS OF CLAIM FOR DRAWBACK

Claims for drawback will be based on the quantity of piece goods used to produce the finished piece goods for export less the value of rag waste, the quantity of remnants, and spoilage, if any.

Proper allowance will be made for any shrinkage or stretching.

AGREEMENTS

The corporation specifically agrees that it will:

1. Comply fully with the terms of this statement when claiming drawback;
2. Open its factory and records for examination at all reasonable hours by authorized Government officers;
3. Keep its drawback related records and supporting data for at least 3 years from the date of payment of any drawback claim predicated in whole or in part upon this statement;
4. Keep this statement current by reporting promptly to the regional commissioner who liquidates its claims any changes in the number or locations of its officers or factories, the corporate name, or the corporate organization by succession or reincorporation;
5. Keep a copy of this statement on file foe ready reference by employees and require all officials and employees concerned

to familiarize themselves with the provisions of this statement; and

6. Issue instructions to insure proper compliance with title 19, United States Code, section 1313(b), Part 191 of the Customs Regulations and this statement.

(T.D. 83-74)

Recent Statutory Change

Text of Sections 502 and 504 of the Fisheries Amendments of 1982, Public Law 97-389.

The Fisheries Amendments of 1982, approved December 29, 1982, contain two sections which amend section 27 of the Merchant Marine Act of 1920 (46 U.S.C. 833), a coastwise trading statute which Customs enforces.

In order to provide wider dissemination of the statutory changes, sections 502 and 504 of Public Law 97-389 are reproduced below. Amendments to the Customs Regulations to reflect changes made by Public Law 97-389 are under consideration.

Dated: March 15, 1983.

MARILYN G. MORRISON.

PUBLIC LAW 97-389—DECEMBER 29, 1982

Public Law 97-389

97th Congress

An Act

To amend the Commercial Fisheries Research and Development Act of 1964.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fisheries Amendments of 1982".

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 502. The Merchant Marine Act, 1920 (41 Stat. 988), as amended (46 U.S.C. 861 et seq.), is amended by adding at the end of section 27: "For the purposes of this section, after December 31, 1983, or after such time as an appropriate vessel has been constructed and documented a vessel of the United States, the transportation of hazardous waste, as defined in section 1004(5) of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6903(5)), from a point in the United States for the purpose of the incineration at sea of that waste shall be deemed to be transportation by water of merchandise between points in the United States: *Provided, however,* That the provisions of this sentence shall not apply to this transportation when performed by a foreign-flag ocean incineration vessel, owned by or under construction on May 1, 1982, for a

orporation wholly owned by a citizen of the United States; the
erm 'citizen of the United States', as used in this proviso, means a
orporation as defined in sections 2(a) and 2(b) of the Shipping Act,
916 (46 U.S.C. 802 (a) and (b)). The incineration equipment on
hese vessels shall meet all current United States Coast Guard and
nvironmental Protection Agency standards. These vessels shall, in
ddition to any other inspections by the flag state, be inspected by
he United States Coast Guard, including drydock inspections and
nternal examinations of tanks and void spaces, as would be re-
uired of a vessel of the United States. Satisfactory inspection shall
e certified in writing by the Secretary of Transportation. Such in-
pections may occur concurrently with any inspections required by
he flag state or subsequent to but no more than one year after the
nitial issuance or the next scheduled issuance of the Safety of Life
t Sea Safety Construction Certificate. In making such inspections,
he Coast Guard shall refer to the conditions established by the ini-
al flag state certification as the basis for evaluating the current
ondition of the hull and superstructure. The Coast Guard shall
llow the substitution of an equivalent fitting, material, appliance,
pparatus, or equipment other than that required for vessels of the
nited States if the Coast Guard has been satisfied that fitting,
aterial, appliance, apparatus, or equipment is at least as effective
s that required for vessels of the United States."

SEC. 504. Section 27 of the Merchant Marine Act, 1920 (46 U.S.C.
83) is amended by inserting the following immediately before the
eriod at the end thereof: "*Provided further,* That for the purposes
f this section, supplies aboard United States documented fish proc-
ssing vessels, which are necessary and used for the processing or
ssembling of fishery products aboard such vessels, shall be consid-
red ship's equipment and not merchandise".

Approved December 29, 1982.

(T.D. 83-75)

Bonds

Approval and discontinuance of consolidated aircraft bonds (air carrier blanket bonds), Customs Form 7605

The following consolidated aircraft bonds have been approved or
iscontinued as shown below. The symbol "D" indicates that the
ond previously outstanding has been discontinued on the month,
ay, and year represented by the figures which follow. "PB" refers
a previous bond, dated as represented by the figures in parenthe-
es immediately following, which has been discontinued. If the pre-
ous bond was in the name of a different company or if the surety
as different, the information is shown in a footnote at the end of
e list.

Dated: March 16, 1983.

Name of principal and surety	Date term commences	Date of approval	Filed with district director/area director/amount
Aeronaves de Mexico, S.A., 8390 N.W. 53rd St., Miami, FL; American Casualty Co. of Reading, PA (PB 9/29/80) D 12/15/82 [1]	Sept. 29, 1982	Dec. 15, 1982	Miami, FL $100,000
The foregoing principal has not been designated as a carrier of bonded merchandise.			
Linea Aerea Nacional De Chile, 7855 N.W. 12th St., #118, Miami, FL; Washington International Ins. Co. (PB 12/14/72) D 12/14/82 [2]	Dec. 14, 1982	Dec. 15, 1982	Miami, FL $100,000
The foregoing principal has not been designated as a carrier of bonded merchandise.			

[1] Surety is National Union Fire Ins. Co.

[2] Surety is Sentry Ins. A Mutual Co.

BON-3-01

Marilyn G. Morrison,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-76)

Synopses of Drawback Decisions

The following are synopses of drawback rates issued March 31, 1982, to November 10, 1982, inclusive, pursuant to sections 22.1 through 22.5, inclusive, Customs Regulations.

In the synopses below are listed for each drawback rate approved under 19 U.S.C. 1313(a), the name of the company, the specified articles on which drawback is authorized, the merchandise which will be used to manufacture or produce these articles, the factories where the work will be accomplished, the date the statement was signed, the basis for determining payment, the Regional Commissioner who issued the rate, and the date on which it was signed.

DRA-1-09
215675

Dated: March 17, 1983.

Marilyn G. Morrison,
Director,
Carriers, Drawback and Bonds Division.

(A) Company: Aegis Textiles
Articles: Bleached, dyed and/or printed piece goods
Merchandise: Imported greige piece goods
Factory: Woodridge, NJ
Statement signed: September 28, 1982
Basis of claim: Used in, less valuable waste
Rate issued by RC: New York, November 8, 1982
Revokes: T.D. 79-197-A

B) Company: Alta Chemical Corp
Articles: Photographic developers
Merchandise: Imported hydroquinone
Factories: San Diego, CA; Glen Burnie, MD
Statement signed: August 10, 1982
Basis of claim: Used in
Rate issued by RC: Los Angeles, September 2, 1982

C) Company: Asahipen America, Inc.
rticles: Latex paints
Merchandise: Imported titanium dioxide
actory: Seattle, WA
Statement signed: July 30, 1982
Basis of claim: Used in
Rate issued by RC: San Francisco, September 3, 1982

D) Company: Beaver NC Machine Tools, Inc.
rticles: Computer controlled metal working machines
lerchandise: Imported incomplete metal working machines
actory: Grand Rapids, MI
tatement signed: August 24, 1982
asis of claim: Used in
ate issued by RC: New York, September 30, 1982

E) Company: Biocraft Laboratories, Inc.
rticles: Amoxicillin trihydrate; ampicillin trihydrate; oxacillin sodium monohydrate; cloxacillin sodium monohydrate; all of the foregoing in bulk and finished dosage form
lerchandise: Imported D-(-)-alpha para hydroxyphenylglycine;
-(-)-alpha phenylglycine; D-(-)-alpha para hydroxyphenylglycine methyl acetoacetate; potassium salt (p hydroxy dane salt); D-(-)-alpha phenylglycine methyl acetoacetate; potassium salt (dane salt); methylene chloride
actories: Waldwick and Elmwood Park (2), NJ
tatement signed: August 3, 1982
asis of claim: Used in
ate issued by RC: New York, September 3, 1982

) Company: Data General Corp.
rticles: Computer systems, computer subsystems and peripheral computer equipment

Merchandise: Imported 8K and 16K core memory boards, in various configurations and various printed circuit board assemblies
Factories: Southboro, MA; Westbrook, ME; Cary and Apex, NC; Portsmouth, NH; Austin, TX
Statement signed: June 30, 1982
Basis of claim: Appearing in
Rate issued by Acting RC: San Francisco, August, 1982
Revokes: T.D. 75-164-I as amended by T.D. 78-184-I

(G) Company: Fansteel/Pasco Gear & Machine, Inc.
Articles: Rotors with drum hubs
Merchandise: Imported synchronous motors
Factory: Phoenix, AZ
Statement signed: August 18, 1982
Basis of claim: Appearing in
Rate issued by RC: Los Angeles, October 29, 1982

(H) Company: Firmenich Inc.
Articles: Non-alcoholic perfume bases
Merchandise: Imported non-alcoholic aromatic substances in liquid and crystal form
Factory: Plainsboro, NJ
Statement signed: August 5, 1982
Basis of claim: Used in
Rate issued by RC: New York, September 30, 1982
Revokes: T.D. 56328-N

(I) Company: Hamilton Test Systems, Inc.
Articles: Automotive test equipment
Merchandise: Imported electronic diagonostic parts and subassemblies
Factory: Tucson, AZ
Statement signed: September 17, 1982
Basis of claim: Appearing in
Rate issued by RC: Los Angeles, October 18, 1982

(J) Company: Paul Hanson Co., Inc.
Articles: Lamps, chandeliers and decorative accessories
Merchandise: Imported lamp bodies and accessories
Factory: Carlstadt, NJ
Statement signed: September 23, 1982
Basis of claim: Used in
Rate issued by RC: New York, November 8, 1982

(K) Company: Howe Industries, Inc.
Articles: Copper-clad laminates and pre-pregs
Merchandise: Imported polyimide resin
Factory: Van Nuys, CA
Statement signed: September 28, 1982

Basis of claim: Used in
Rate issued by RC: Los Angeles, October 29, 1982

(L) Company: Kay-Fries, Inc.
Articles: Cyanoacetic acid and ethyl cyanoacetate
Merchandise: Imported mono-chloroacetic acid flake
Factory: Stony Point, NY
Statement signed: September 27, 1982
Basis of claim: Used in
Rate issued by RC: New York, November 8, 1982

(M) Company: Kouri's Inc.
Articles: Processed Oriental wool carpets
Merchandise: Imported unprocessed Oriental wool carpets
Factory: Poughkeepsie, NY
Statement signed: May 7, 1982
Basis of claim: Used in
Rate issued by RC: New York, November 3, 1982

(N) Company: McGraw-Edison Co., Wagner Div.
Articles: Brake fluid
Merchandise: Imported isobutyl alcohol
Factory: Berkeley, MO
Statement signed: July 16, 1982
Basis of claim: Used in
Rate issued by RC: New York, November 3, 1982

(O) Company: MatchMaster Dyeing & Finishing Co., Inc.
Articles: Bleached, dyed and/or redyed piece goods
Merchandise: Imported piece goods
Factory: Los Angeles, CA
Statement signed: September 2, 1982
Basis of claim: Used in, less valuable waste
Rate issued by RC: New York, November 8, 1982

P) Company: Motorola, Inc.
Articles: Auto radio power amplifiers, entertainment radios, computer display monitors, microwave oven controls, microprocessor engine control modules, and sensor control modules
Merchandise: Imported electronic components
Factories: Joplin, MO; Arcade, NY; Sequin, TX
Statement signed: September 10, 1982
Basis of claim: Appearing in
Rate issued by RC: Chicago, September 23, 1982

Q) Company: Pellerin Milnor Corp. and Milnor International Corp. (a subsidiary of Pellerin Milnor Corp.)
Articles: Milnor commercial laundry washer extractors

Merchandise: Imported commercial laundry machinery parts, manual or electronic
Factory: Kenner, LA
Statement signed: February 17, 1982
Basis of claim: Used in
Rate issued by RC: New Orleans, March 31, 1982
Revokes: T.D. 67-288-I as amended by T.D. 73-50-E and T.D. 77-146-Q

(R) Company: Rhone-Poulenc, Inc.
Articles: Rhonaldehyde (Hydrocinnamaledhyde para-t-butyl-alpha-methyl)
Merchandise: Imported tertiobutylbenzene (TBB)
Factory: New Brunswick, NJ
Statement signed: May 3, 1982
Basis of claim: Used in
Rate issued by RC: New York, September 3, 1982

(S) Company: Rhone-Poulenc Inc.
Articles: Trimipramine maleate
Merchandise: Imported product 0063, a mixture of Trimipramine base and isopropanol
Factory: New Brunswick, NJ
Statement signed: May 3, 1982
Basis of claim: Used in
Rate issued by RC: New York, September 3, 1982

(T) Company: Ricoh Electronics, Inc.
Articles: Photo copiers
Merchandise: Imported knocked down kits of assembly parts for photo copiers
Factory: Irvine, CA
Statement signed: September 12, 1982
Basis of claim: Appearing in
Rate issued by RC: Los Angeles, November 9, 1982

(U) Company: Shieldalloy Corp.
Articles: Manganese and chromium quick-sol briquettes
Merchandise: Imported manganese metal, manganese metal powder, chromium metal, chromium metal powder and chromium oxide
Factory: Newfield, NJ
Statement signed: August 12, 1982
Basis of claim: Used in
Rate issued by RC: Baltimore, September 3, 1982

(V) Company: Southwestern Alloys, Inc.
Articles: Titanium bar and billet
Merchandise: Imported titanium ingot

Factory: Paramount, CA
Statement signed: August 11, 1982
Basis of claim: Used in, less valuable waste
Rate issued by RC: Los Angeles, September 10, 1982

(W) Company: Transcrete, Inc.
Articles: Concrete pumps
Merchandise: Imported modules and diesel engines
Factory: South Gate, CA
Statement signed: September 9, 1982
Basis of claim: Appearing in
Rate issued by RC: Los Angeles, September 21, 1982

(X) Company: United States Steel Corp., U.S.S. Chemical Div.
Articles: Polypropylene pellets
Merchandise: Imported catalysts FT-1, FT-1s, and FT-1ss
Factory: La Porte, TX
Statement signed: June 17, 1982
Basis of claim: Used in
Rate issued by RC: Houston, October 4, 1982

(Y) Company: Van R Dental Products, Inc.
Articles: Reversible hydrocolloid products
Merchandise: Imported agar-agar
Factory: Los Angeles, CA
Statement signed: September 13, 1982
Basis of claim: Appearing in
Rate issued by RC: Los Angeles, October 12, 1982

(Z) Company: Williams & Lane, Inc.
Articles: Generator sets
Merchandise: Imported internal combustion engines
Factory: San Leandro, CA
Statement signed: October 27, 1982
Basis of claim: Appearing in
Rate issued by San Francisco District: November 10, 1982

Arapahoe Chemicals, Inc., operating under T.D. 80-204-C has changed its name to Syntex Chemicals, Inc., Arapahoe Chemicals Div.

Arapahoe Chemicals, Inc., operating under T.D. 82-117-A has changed its name to Syntex Chemicals, Inc.

(T.D. 83-77)

Drawback Contract—Fur Skins or Fur Skin Articles

The proposed Customs Regulations revision of Part 22 relating to drawback was published in the Federal Register, August 26, 1982.

Section 22.6(a) through (i) of the regulations, relating to gener
drawback rates is being removed from the revision to the regul
tions, Part 191. This section is not of sufficient general applicabili
to be included in the revision. However, no member of the publ
would be forfeiting any rights and benefits by its removal. As a
vised in the Notice of Proposed Rulemaking, 47 FR 37568, gener
drawback contracts would be published as Treasury Decisions d
signed to take the place of the eliminated section. The following
one such contract.

File: DRA-1
215672

Dated: March 17, 1983.

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

Drawback Contract Under 19 U.S.C. 1313(a) for Articles Manufa tured With the Use of Fur Skins or Fur Skin Articles Impor ed in a Raw, Dressed, or Dyed Condition

Drawback may be allowed under the provisions of section 313(a
Tariff Act of 1930, upon the exportation of dressed, redressed, dye
redyed, bleached, blended, or striped fur skins or fur skin articl
manufactured or produced by any one or a combination of the for
going processes with the use of fur skins or fur skin articles, suc
as plates, mats, sacs, strips, and crosses, imported in a ra
dressed, or dyed condition, subject to the following special requir
ments:

(1) The records of the manufacturer or producer shall show, as t
each lot of fur skins and fur skin articles manufactured or pr
duced for exportation with benefit of drawback, the lot number an
the date or inclusive dates of manufacture or production, the qua
tity, identity, and description of the imported merchandise use
the condition in which imported, the process or processes applie
thereto, the quantity and description of the finished articles o
tained, and the quantity of imported pieces rejected, if any, c
spoiled in manufacture or production.

(2) An abstract of the manufacturing or production records sha
be filed with the drawback entry.

(3) The drawback allowance shall not exceed the duty paid, less
per centum thereof, on the quantity of imported merchandise use
in the manufacture or production of the exported articles, as show
by the abstract of the manufacturing or production records. Th
quantity of imported merchandise used shall be determined by de
ducting from the quantity of fur skins or fur skin articles put int
manufacture or production the quantity of rejects and spoilage in
curred, if any.

(4) Drawback shall not be allowed hereunder when the process performed results only in the restoration of the articles to their condition at the time of importation.

(5) Each manufacturer or producer of articles covered by the above drawback rate shall submit to the regional commissioner where drawback entries will be filed, a statement in duplicate describing the methods used in the manufacture or production of the products involved and setting forth the records it agrees to keep for the purpose of complying with the drawback law and regulations and for providing all the data required for the proper liquidation of certificates of manufacture and drawback entries filed hereunder. If the statement shows that the methods and records described therein enable the manufacturer or producer to comply with the law and regulations, the regional commissioner shall approve the statement and promptly notify the applicant, in writing, of such action.

If drawback entries are to be liquidated at more than one regional office, two additional copies of the statement shall be required for each additional office. In such case, the regional commissioner at the place first listed in the drawback statement shall approve the statement, if that action is warranted, and promptly notify the applicant, in writing, of such action.

Revised statements covering changes in drawback statements filed under this Treasury Decision shall be handled in accordance with the previously discussed provisions.

The allowance of drawback on articles covered by this Treasury Decision shall be subject to compliance with the applicable provisions of Part 191.

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19 CFR Part 4

(T.D. 83-78)

Vessels in Foreign and Domestic Trades

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to add Spain to the list of nations which permit vessels of the United States to transport certain articles specified in section 27, Merchant Marine Act of 1920, as amended, between their ports.

The Department of State has furnished satisfactory evidence that Spain places no restrictions on the transportation of certain specified articles by vessels of the United States between ports in that country. This amendment provides reciprocal privileges for vessels registered in Spain.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Harold Singer, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 27, Merchant Marine Act of 1920, as amended (46 U.S.C. 883) (the "Act"), provides generally that no merchandise shall be transported by water, or by land and water, between points in the United States except in vessels built in and documented under the laws of the United States and owned by U.S. citizens. However, the Act, as amended by Pub. L. 89-194 (79 Stat. 823, T.D. 66-176) and 90-474 (82 Stat. 700, T.D. 68-277), provides that upon a finding by the Secretary of the Treasury, pursuant to information obtained and furnished by the Secretary of State that a foreign nation does not restrict the transportation of certain articles between its ports by vessels of the United States, reciprocal privileges will be accorded to vessels of that nation, and the prohibition against the transportation of those articles between points in the United States will not apply to its vessels.

Section 4.93(b)(1), Customs Regulations (19 CFR 4.93(b)(1)), lists those nations found to extend reciprocal privileges to vessels of the United States for the transportation of empty cargo vans, empty lift vans, and empty shipping tanks. Section 4.93(b)(2), Customs Regulations (19 CFR 4.93(b)(2)), lists those nations found to grant reciprocal privileges to vessels of the United States for the transportation of equipment for use with cargo vans, lift vans, or shipping tanks; empty barges specifically designed for carriage aboard a vessel and certain equipment for use with these barges; certain empty instruments of international traffic; and certain stevedoring equipment and material.

On February 7, 1983, the Department of State advised the Secretary of the Treasury that, effective February 1, 1983, Spain places no restrictions on the transportation of the articles listed in the Act by vessels of the United States between ports in Spain.

By the Treasury Department Order 165-25 the Secretary of the Treasury has delegated authority to the Commissioner of Customs to prescribe regulations relating to sections 4.22, 4.81a(b), 4.93(b)(1) and (b)(2), 4.94(b), and 10.59(f), Customs Regulations, (19 CFR 4.22, 4.81a(b), 4.93(b)(1) and (b)(2), 4.94(b), and 10.59(f). These sections relate to lists of nations entitled to preferential treatment in Customs matters because of reciprocal privileges accorded to vessels and aircraft of the United States. Subsequently, by Customs Delegation Order No. 66 (T.D. 82-201), dated October 13, 1982, the Commissioner delegated this authority to the Assistant Commissioner (Commercial Operations). Authority to grant this exemption and to amend these sections was delegated from the Assistant Commissioner (Commerical Operations), to the Director, Office of Regulations and Rulings, who then re-delegated this authority to the Director, Regulations Control and Disclosure Law Division.

FINDING

On the basis of the information received from the Secretary of State, as described above, it is determined that the Government of Spain places no restrictions on the transportation of the articles specified in section 27 of the Merchant Marine Act of 1920, as amended, by vessels of the United States between ports in Spain. Therefore, reciprocal privileges are accorded to vessels registered in Spain as of February 1, 1983.

LIST OF SUBJECTS IN 19 CFR PART 4

Customs duties and inspection, cargo vessels, maritime carriers, vessels.

REGULATIONS AMENDMENTS

To reflect the reciprocal privileges granted to vessels registered in Spain, Part 4, Customs Regulations (19 CFR Part 4), is amended in the following manner:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Sections 4.93(b)(1) and (b)(2), Customs Regulations (19 CFR 4.93(b)(1), (b)(2)), are amended by adding "Spain" in appropriate alphabetical order to the list of nations entitled to reciprocal privileges.

(R.S. 251, as amended, sec. 27, 41 Stat. 999, as amended, sec. 624, 46 Stat. 759, sec. 14, 67 Stat. 516, Pub. L. 89-194, 79 Stat. 823, Pub. L. 90-474, 82 Stat. 700 (5 U.S.C. 301, 19 U.S.C. 1322(a), 1624, 46 U.S.C. 883))

INAPPLICABILITY OF PUBLIC NOTICE AND DELAYED EFFECTIVE DATE REQUIREMENTS

Because this is a minor amendment in which the public is not particularly interested and there is a statutory basis for the described extension of reciprocal privileges, notice and public procedure pursuant to 5 U.S.C. 553(b)(B) are unnecessary. In accordance with 5 U.S.C. 553(d)(1), a delayed effective date is not required because this amendment grants an exemption.

INAPPLICABILITY OF REGULATORY FLEXIBILITY ACT

This document is not subject to the provisions of sections 603 and 604 of title 5, United States Code, as added by section 3 of Pub. L. 96-354, the "Regulatory Flexibility Act." That Act does not apply to any regulation such as this for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) or any other statute.

EXECUTIVE ORDER 12291

This amendment does not meet the criteria for a major regulation as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

DRAFTING INFORMATION

The principal author of this document was James S. Demb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices of the Customs Service and the Departments of State and the Treasury participated in its development.

Dated: March 21, 1983.

B. JAMES FRITZ,
Director,
Regulations Control and Disclosure Law Division.

[Published in the Federal Register, March 25, 1983 (48 FR 12520)]

(T.D. 83-79)

Bonds

Approval and discontinuance of Carrier's Bonds, Customs Form 3587

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: March 23, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Airline Freight Inc., Bay #14, 900 Calcon Hook Rd., Sharon Hill, PA; motor carrier; U.S. Fidelity & Guaranty Co.	Feb. 17, 1983	Feb. 17, 1983	Philadelphia, PA $50,000
Beeman Refrigerated Transport, Inc., Box 385, Chazy, NY; motor carrier; St. Paul Fire & Marine Ins. Co.	Feb. 15, 1983	Feb. 25, 1983	Ogdensburg, NY $50,000
Big Boy's Rigging Service, Inc., 4312 Pistorio Rd., Baltimore, MD; motor carrier; Fireman's Fund Ins. Co.	Feb. 23, 1983	Feb. 25, 1983	Baltimore, MD $25,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Clifton Trucking Corp., 3445 Paterson Plank Rd., North Bergen, NJ; motor carrier; Old Republic Ins. Co. D 2/22/83	Oct. 27, 1979	Nov. 1, 1979	Newark, NJ $50,000
Cloud Trading, Inc., 709 S. Lane, Seattle, WA, motor carrier; Washington International Ins. Co.	Feb. 24, 1982	Feb. 25, 1982	Seattle, WA $25,000
Coast Carloading Co., 2100 Alhambra Ave., Los Angeles, CA; motor carrier; U.S. Fidelity & Guaranty Co. (PB 1/29/82) D 3/1/83 [1]	Jan. 26, 1983	Mar. 2, 1983	Los Angeles, CA $50,000
Cranston Trucking Co., 1381 Cranston St., Cranston, RI; motor carrier; Federal Ins. Co.	Jan. 7, 1983	Feb. 15, 1983	Providence, RI $50,000
Cushman Cartage & Float Inc., 36 Cushman Rd., St. Catharines, Ontario, Canada; motor carrier; St. Paul Fire & Marine Ins. Co.	Feb. 24, 1983	Mar. 1, 1983	Buffalo, NY $25,000
Eagle Air Freight, 15911 Morales, Houston, TX; motor carrier; St. Paul Fire & Marine Ins. Co. D 6/3/82	Apr. 1, 1980	Apr. 21, 1980	Houston, TX $25,000
Ellex Transportation, Inc., P.O. Box 3637, Tulsa, OK; motor carrier; The Aetna Casualty & Surety Co.	Jan. 18, 1983	Mar. 1, 1983	Houston, TX $50,000
Fast Transportation Service, Inc., P.O. Box S-5693, Old San Juan, PR; motor carrier; Old Republic Ins. Co. (PB 11/17/82) D 3/1/83 [2]	Jan. 20, 1983	Mar. 1, 1983	San Juan, PR $25,000
Griley Freight Lines, P.O. Box 20039, Long Beach, CA; motor carrier; South Carolina Ins. Co. (PB 11/29/76) D 2/16/83 [3]	Feb. 7, 1983	Feb. 17, 1983	Los Angeles, CA $50,000
Hume's Transport Ltd., 2492 St. Clair Ave., W., Toronto, Ontario, Canada; motor carrier; Fidelity & Deposit Co. of MD	Dec. 16, 1982	Feb. 24, 1983	Detroit, MI $50,000
JR Transportation Services, Inc., RD #6, Box 385, Hammonton, NJ; motor carrier; State Farm Fire and Casualty Co.	Jan. 18, 1983	Feb. 16, 1983	Philadelphia, PA $25,000
Louisville and Nashville Railroad, 908 W. Broadway, Louisville, KY; rail carrier; Safeco Ins. Co. of America D 3/1/83	Aug. 1, 1981	Sept. 16, 1981	Cleveland, OH $100,000
Manning Motor Express, Inc., Westwood St., P.O. Box 685, Glasgow, KY; motor carrier, Liberty Mutual Ins. Co.	Dec. 21, 1982	Feb. 23, 1983	Cleveland, OH $50,000
J. J. Mesa Trucking Co., Inc., 1500 S. Zarzamora, San Antonio, TX; motor carrier; St. Paul Fire & Marine Ins. Co.	Feb. 15, 1983	Mar. 3, 1983	Laredo, TX $25,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Regional Storage & Transport, Inc., P.O. Box 817, Greenville, NC; motor carrier; St. Paul Fire & Marine Ins. Co. (PB 3/8/82) D 3/7/83 [4]	Mar. 8, 1983	Mar. 8, 1983	Wilmington, NC $25,000
Seaboard System Railroad, Inc., 500 Water St., Jacksonville, FL; motor carrier; Safeco Ins. Co. of America	Jan. 1, 1983	Feb. 24, 1983	Tampa, FL $50,000
Southern California Motor Delivery, P.O. Box 756, Montebella, CA; motor carrier; Mid-Century Ins. Co.	Dec. 16, 1981	Feb. 14, 1983	Los Angeles, CA $50,000
Southern Carriers, Inc., P.O. Box 631, Galena Park, TX; motor carrier; Allied Fidelity Ins. Co. (PB 11/25/80) D 12/19/82 [5]	Nov. 25, 1982	Dec. 20, 1982	Houston, TX $50,000
Sumas Transport, Inc., 1757 W. Bakerview Rd., Bellingham, WA; motor carrier; St. Paul Fire & Marine Ins. Co.	Feb. 14, 1983	Feb. 18, 1983	Seattle, WA $25,000
Towpich Express Lines, Ltd., 2840 58th Ave., S.E., Calgary, Alberta, Canada; motor carrier; Royal Ins. Co. of America D 3/1/83	May 13, 1981	July 24, 1981	Great Falls, MT $25,000
Transwares Management Ltd., 27 Manstor Rd., Etobicoke, Ontario, Canada; motor carrier; Transamerica Ins. Co.	Feb. 24, 1983	Mar. 4, 1983	Buffalo, NY $40,000
Tri-State Air Cargo, Inc., Tri-State Airport, P.O. Box 712, Ceredo, WV; motor carrier; Ohio Farmers Ins. Co.	Nov. 10, 1982	Mar. 1, 1983	Norfolk, VA $25,000
Triangle Transportation Inc., 4219 W. Produce Plaza, Vernon, CA; motor carrier; Great America Ins. Co.	Dec. 29, 1982	Feb. 14, 1983	Los Angeles, CA $50,000
Trucking Services, Inc., P.O. Box 229, Carlinville, IL; motor carrier; The American Ins. Co.	Jan. 14, 1983	Mar. 3, 1983	St. Louis, MO $50,000
Vaughn Rue Produce Co., Inc., P.O. Box 7235, Wilson, NC; motor carrier; United States Fire Ins. Co.	Jan. 21, 1983	Feb. 23, 1983	Wilmington, NC $25,000

[1] Surety is Lumbermen's Mutual Casualty Co.

[2] Principal is Acosta Fast Transportation Services, Inc.; Surety is Peerless Ins. Co.

[3] Surety is Liberty Mutual Ins. Co.

[4] Surety is U.S. Fidelity & Guaranty Co.

[5] Surety is Federal Ins. Co.

BON-3-03

GEORGE C. STEUART
(For Marilyn G. Morrison,
Director, Carriers, Drawback and Bonds Division.)

(T.D. 83-80)

Drawback Contract—Flaxseed

The proposed Customs Regulations revision of Part 22 relating to drawback was published in the Federal Register, August 26, 1982. Section 22.6(a) through (i) of the regulations, relating to general drawback rates is being removed from the revision to the regulations, Part 191. This section is not of sufficient general applicability to be included in the revision. However, no member of the public would be forfeiting any rights and benefits by its removal. As advised in the Notice of Proposed Rulemaking, general drawback contracts would be published as Treasury Decisions designed to take the place of the eliminated section. The following is one such contract.

File: DRA-1

Dated: March 17, 1983.

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

DRAWBACK CONTRACT UNDER 19 U.S.C. 1313(a) FOR ARTICLES MANUFACTURED WITH THE USE OF FLAXSEED

Drawback may be allowed under the provisions of section 313(a), Tariff Act of 1930, upon the exportation of linseed oil, linseed oil cake, and linseed oil meal, manufactured with the used of imported flaxseed, subject to the following special requirements:

(1) The mill zones hereinafter referred to embrace: New York Mill Zone: Maine, New Hampshire, Vermont, Massachusetts, Connecticut, New York (except Buffalo), New Jersey, Pennsylvania (except Pittsburgh), Delaware, Maryland, and Rhode Island. Buffalo Mill Zone: Buffalo, N.Y., Pittsburgh, Pa., West Virginia, Ohio, Indiana, Michigan, and Kentucky. Chicago Mill Zone: Minnesota, South Dakota, Wisconsin, Illinois, Iowa, Nebraska, Missouri, and Kansas. West Coast Mill Zone: Washington, Idaho, Oregon, California, Nevada, Utah, and Arizona.

(2) Except as provided for in paragraph (3) of this Treasury Decision, the manufacturing period (hereinafter referred to as the abstract period) of each crusher shall be coextensive with the withdrawal of one or more entire lots or cargoes of imported flaxseed, from the storage tanks and the manufacture into oil and cake of the flaxseed so withdrawn. A cut-off shall be made at the storage tanks after the withdrawal of one or more complete lots or cargoes, and all the seed from such lots or cargoes in process or contained in bins, screens, conveyors, cookers, presses, expellers, etc., shall be manufactured during the abstract period in order that there may be no overlapping of seed and product from one abstract period to

another. If any seed withdrawn from the storage tanks during any abstract period is disposed of without being manufactured into the products specified in this Treasury Decision, it shall be reported on the certificate of manufacture provided for in paragraph (4) of this Treasury Decision. The quantity of seeds so withdrawn shall be stated according to its condition as imported.

(3) Should it become necessary for a crusher to terminate an abstract period before the complete withdrawal from the storage tanks of any lot or cargo of imported flaxseed contained therein, a cut-off shall be made at the storage tanks and the quantity of imported flaxseed remaining in the tanks after the cut-off shall be determined by weighing, gauging, or measuring under the supervision of a Customs officer. Upon application to the district director in whose district the plant of the crusher is located, a Customs officer shall be assigned for this purpose. All flaxseed withdrawn from storage before the cut-off shall be manufactured into oil and cake or otherwise disposed of before a new abstract period is begun.

(4) At the conclusion of each abstract period during which a crusher manufactures oil, cake, or meal for exportation with drawback, such crusher shall file a certificate of manufacture, constituting an abstract of his manufacturing records, with the district director at any one of the following ports: Philadelphia, Pa.; Chicago, Ill.; Cleveland, Ohio; San Francisco, Calif.; Seattle, Wash.; or with the area director at New York, N.Y.

(5) Such certificate shall show the inclusive dates of manufacture; the quantity, identity, and value (if valuable wastes occur) of the imported flaxseed or screenings, scalpings, chaff, or scourings used; the quantity by actual weight and value, if any, of the material removed from the foregoing by screening prior to crushing; the quantity and kind of domestic merchandise added, if any; the quantity by actual weight or gauge and value of the oil, cake, and meal obtained; and the quantity and value, if any, of the waste incurred. The quantity of imported flaxseed, screenings, scalpings, chaff, or scourings used or of material removed shall not be estimated nor computed on the basis of the quantity of finished products, obtained, but shall be determined by actually weighing the said flaxseed, screenings, scalpings, chaff, scourings, or other material; or, at the option of the crusher, the quantities of imported materials used may be determined from Customs weights, as shown by the import entry covering such imported materials, and the Government weight certificate of analysis issued at the time of entry. The entire period covered by an abstract shall be deemed the time of separation of the oil and cake covered thereby.

(6) The drawback allowance shall not exceed 99 percent of the duty paid on the quantity of imported flaxseed, screenings, scalpings, chaff, or scourings used in the manufacture of the exported products, less the quantity of such imported materials which the

value of the waste will replace, as shown by the abstract of the manufacturing records provided for above.

(7) The drawback allowance shall be distributed to the oil and cake in accordance with their relative values at the time of separation, and the drawback allowance on the processed oil and on the oil meal shall be the drawback accruing to the raw oil and to the cake from which the processed oil and the meal, respectively, were produced.

(8) In order that the relative values may be determined for use as the bases for the distribution of the drawback to the several products as prescribed in section 313(a), Tariff Act of 1930, each crusher operating under the provisions of this Treasury Decision shall file with the area director, New York, N.Y., within 10 days after the 1st and the 15th days of each month a statement in duplicate showing the quantity of oil in barrels of 375 pounds each and the quantity of cake or meal in tons of 2,000 pounds delivered each day from the mill during the preceding period (that is, 1st to 15th or 16th to the last day of the month) to points in the zone in which the mill is located. The total daily quantity and value of such products delivered with drawback not reserved by the crusher and the total daily quantity of such products delivered with drawback reserved by the crusher shall be stated separately. The value of oil shall be shown on the carload raw basis in barreled condition, that is, if the oil was processed, the processing differential shall be deducted, or, if it was delivered in tank wagons or tank cars, the barreling differential shall be added. The values of cake and meal shall be shown on the carload basis in bags. The values of oil, cake, and meal, as outlined above, shall be reported on the basis of the invoices of sale, without deduction for the cost of containers and other charges.

(9) Upon receipt of the statements from the crushers concerned, the area director at New York shall determine and declare the daily average values of the raw linseed oil and linseed cake manufactured by the crushers in each mill zone. Such daily average values shall be ascertained in the following manner:

(i) The total quantity of oil delivered on a certain day by all crushers in a given mill zone to points within that zone, with drawback not reserved by the crushers, divided into the amount of money received by the crushers for such oil (the quotient to be extended to 6 decimal places), less the amount deducted for the cost of packing and other charges incurred after separation shall be the daily average value of such oil.

(ii) The total quantity of cake delivered on a certain day by all crushers in a given mill zone to points within that zone, with drawback not reserved by the crushers, divided into the amount of money received by the crushers for such cake (the quotient to be extended to 6 decimal places), less the amount deducted for the cost of packing and other charges incurred after separation, shall be the daily average value of such cake.

(iii) The total quantity of meal delivered on a certain day by all crushers in a given mill zone to points within that zone, with drawback not reserved by the crushers, divided into the amount of money received by the crushers for such meal (the quotient to be extended to 6 decimal places), less the amount deducted for the cost of packing, grinding, and other charges necessary to reduce such meal to a cake basis, shall be the daily average value of the cake from which such meal was ground.

(iv) The weighted average of the two values determined in accordance with paragraphs (9) (ii) and (iii) of this Treasury Decision shall be the daily average value of the cake concerned.

(v) If no deliveries of oil, cake, or meal are made to a point in the mill zone on a certain day, the last daily average value established by the area director at New York for that product shall be used as the value thereof for the day on which no deliveries were made.

(vi) The amount to be deducted from the delivered value of oil, cake, or meal by the area director at New York to make relative value at the point of separation shall be an average amount for each zone obtained by averaging the cost of packing and other charges of all crushers within the zone concerned. In order that this deduction may be made, each crusher shall furnish the area director at New York, from time to time as the director may request, a statement showing such costs and charges.

(10) After the close of each calendar month the area director at New York shall prepare for each mill zone a statement showing the daily average values of cake and oil ascertained as above, and shall transmit to the district directors at Philadelphia, Chicago, Cleveland, San Francisco, and Seattle copies of such statements as cover zones in which crushers who file abstracts at the respective ports are located.

(11) To ascertain the relative values of the cake and oil for the period covered by an abstract, the district director concerned shall add the daily average values for his zone of cake and oil, respectively, as furnished by the area director at New York, for each day of the period covered by the abstract and shall divide the totals thus obtained by the number of such daily average values.

(12) Upon the application of any crusher operating under this Treasury Decision, the district director at any of the above-mentioned ports is authorized to advise such crusher of the daily average values of cake and oil established by the area director at New York for the zone in which the crusher is located, and of the relative values of such products as determined for the period covered by an abstract filed by such crusher with the district director to whom application has been made.

(13) If a crusher desires to file his abstract at one of the above-enumerated ports not located within the mill zone in which his

plant is situated, the daily average values of the oil and cake for the zone in which the plant of the crusher is situated shall be certified by the area director at New York to the district director at the port where such abstract is to be filed, on the request of such crusher; and the district director at such port shall ascertain the relative values of the products for the period covered by the abstracts in the manner prescribed in paragraph (11) of this Treasury Decision.

(14) If the records of the manufacturer do not show the quantity of oil cake used in the manufacture of the exported oil meal and the quantity of oil meal obtained, the net weight of the oil meal exported shall be regarded in liquidation as the weight of the oil cake used in the manufacture thereof.

(15) If various tanks are used for the storage of imported flaxseed, the mill records shall show by a definite designation the tank or tanks in which each lot or cargo is stored.

(16) If raw or processed oil manufactured during different periods of manufacture is intermixed in storage, a record shall be maintained showing the quantity, identity, and kind of oil so intermixed. Identification shall be made in accordance with section 191.22(c), Customs Regulations. If oil is intermixed is delivered to manufacturers who use the oil in the manufacture of articles to be exported, the certificate of delivery shall show the certificates of manufacture from which such oil may have originated.

(17) If linseed cake or meal is placed in storage, it shall be segregated by abstract periods or marked to show the period in which it was manufactured.

(18) Each manufacturer or producer of articles covered by the above drawback rate shall submit to the regional commissioner where drawback entries will be filed, a statement in duplicate describing the methods used in the manufacture or production of the products involved and setting forth the records it agrees to keep for the purpose of complying with the drawback law and regulations and for providing all the data required for the proper liquidation of certificates of manufacture and drawback entries filed hereunder. If the statement shows that the methods and records described therein enable the manufacturer or producer to comply with the law and regulations, the regional commissioner shall approve the statement and promptly notify the applicant, in writing, of such action.

If drawback entries are to be liquidated at more than one regional office, two additional copies of the statement shall be required for each additional office. In such case, the regional commissioner at the place first listed in the drawback statement shall approve the statement, if that action is warranted, and promptly notify the applicant, in writing, of such action.

Revised statements covering changes in drawback statements filed under this Treasury Decision shall be handled in accordance with the previously discussed provisions.

The allowance of drawback on articles covered by this Treasury Decision shall be subject to compliance with the applicable provisions of Part 191.

(T.D. 83-81)

Autolog Corp., et al., v. *Regan, et al.* (Civil Action No. 82-2275 before the U.S. District Court for the District of Columbia, March 8, 1983)

The following Memorandum Opinion by Judge John H. Pratt for the U.S. District Court for the District of Columbia sustains an interpretation of the coastwise laws (46 U.S.C. 289, 833) by the Customs Service.

Dated: March 28, 1983.

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

AUTOLOG CORPORATION, ET AL., PLAINTIFFS *v.* DONALD T. REGAN, SECRETARY OF THE TREASURY, ET AL., DEFENDANTS

(Civil Action No. 82-2275)

Memorandum Opinion

This matter comes before the Court on the following motions:

1. Motion of defendant Scandinavian World Cruises (Bahamas) Ltd. (SWC) for summary judgment against all plaintiffs and intervenor-plaintiffs except Acadian Shipping Corporation;
2. Motion of defendant SWC for summary judgment against intervenor-plaintiff Acadian Shipping Corporation;
3. Motion of the federal defendants to dismiss or, in the alternative, for summary judgment;
4. Unopposed motion of defendant Scandinavian World Cruises, Inc. to dismiss for lack of personal jurisdiction, insufficient service of process and improper venue;
5. Cross-motion of plaintiffs for summary judgment;
6. Cross-motion of intervenor-plaintiffs Trailer Marine Transport, Drummond Lighterage Co. and Acadian Shipping Corporation for partial summary judgment; and
7. Cross-motion of intervenor-plaintiff Seafarers International Union of North America for partial summary judgment.

For the reasons set forth below, we grant the motion of defendant SWC for summary judgment on the ground that the original plaintiffs lack standing and on the further ground that as to the complaints of intervenor-plaintiffs there is no genuine issue as to any material fact and defendant SWC is entitled to judgment as a matter of law pursuant to Fed.R.Civ.P. 56. We also grant the motion of the federal defendant, in the alternative, for summary judgment and the unopposed motion of defendant Scandinavian World Cruises, Inc. to dismiss for lack of personal jurisdiction, insufficient service of process and improper venue. In addition, we deny the cross-motion of intervenor-plaintiffs for partial summary judgment. Finally, in light of our decision that the original plaintiffs lack standing, we find it unnecessary to reach their motion for summary judgment.

FACTUAL BACKGROUND

This action was brought to challenge the legality under the United States coastwise laws of the operation of three foreign-flag vessels, which are engaged in the transport of passengers and their personal automobiles between New York, Port Canaveral and Miami, respectively, and Freeport, Grand Bahama Island. The original plaintiffs in this action consist of four interstate automobile carriers and a local union representing the employees of one motor carrier plaintiff (hereinafter referred to collectively as the "motor carriers"). Also, intervening as plaintiffs are: the Seafarers International Union of North America (SIU), which represents unlicensed seamen crewing U.S.-flag vessels engaged in deep sea, Great Lakes and inland waterway commerce; and three U.S.-flag water carriers or prospective water carriers transporting or qualified to transport cargo in the U.S. coastwise trade. Named as defendants in this action are: Scandinavian World Cruises (Bahamas) Ltd. (SWC), a corporation organized under the laws of the Bahamas and registered to do business in the State of Florida, which operates cruise ships between the U.S. and the Bahamas; Scandinavian World Cruises, Inc., a Florida corporation which is not yet operational and which is an entity distinct from co-defendant SWC; the Interstate Commerce Commission (ICC); and Donald T. Regan, Secretary of the Treasury, sued in his capacity as the official responsible for enforcement of U.S. cabotage and customs laws.

This case was previously before the Court on the motion by plaintiff for a preliminary injunction to compel the Secretary of the Treasury to enforce U S. coastwise law and to prohibit defendant SWC from transporting passengers and their automobiles between U.S. ports indirectly by way of Freeport, Grand Bahama Island. After hearing oral argument and receiving testimony on plaintiffs' motion for a preliminary injunction on September 2, 1982, this Court issued an order denying the motion on September 21, 1982.

To review the facts briefly,[1] defendant SWC operates three passenger vessels in the U.S.-Bahamas trade. One vessel, the M/S *Scandinavian Sea*, provides weekly service between Port Canaveral, Florida and Freeport, Grand Bahama Island. A second vessel, the M/S *Scandinavian Sun*, makes daily round trip voyages between Miami, Florida and Freeport. A third vessel, the M/S *Scandinavia*, plies the New York to Freeport leg of SWC's tripartite service, making one round trip approximately every five days.

Each of these vessels carries both passengers and their personal automobiles in a ferry-type drive-on/drive-off manner. The maximum passenger and vehicle capacities of each ship are as follows:

M/S *Scandinavian Sea*—1,100 passengers, 75 vehicles.
M/S *Scandinavia*—1,600 passengers, 400 vehicles.
M/S *Scandinavian Sun*—1,100 passengers, 124 vehicles.

Passengers traveling on any SWC vessel pay the same price whether or not they bring along an automobile; if they elect to bring along their automobile, it is carried as accompanied baggage. Passengers drive their vehicles directly on to SWC ships at their port of embarkation and drive them off at their port of disembarkation without the assistance of stevedores. During the voyage passengers may leave personal belongings in their cars and are permitted access to their vehicles.

Upon arrival of any SWC vessel at Freeport, passengers must disembark with their vehicles and clear Bahamian customs and immigration. Passengers may remain in the Bahamas as long as they desire and use their vehicles to visit beaches, resorts and hotels. Passengers may cruise back to their port of origin on the same vessel upon which they arrived or to a different U.S. port on one of the other two SWC vessels.

Although defendant SWC's cruise service involves only indirect transportation of passengers and vehicles between U.S. ports, defendant SWC advertized its service under the following headline: "Cruise to Florida for Less than it Costs to Drive" from New York. According to data provided by SWC to the intervenor-plaintiff water carriers in the course of discovery, 75 percent of the passengers who booked passage from October 10, 1982 to December 31, 1982, on the M/S *Scandinavia* from New York to Freeport had advance reservations to continue to Florida aboard another SWC vessel. Ninety percent of those "through-booked" passengers left for Florida on the first or second day after arriving in Freeport. Table I to Motion of Intervenor-Plaintiffs Trailer Marine Transport, Drummond Lighterage Company and Acadian Shipping Corporation for Partial Summary Judgment.

More pertinent to the legal issues in this case, the figures concerning the "through-booking" of passengers' accompanied vehicles are much the same. Almost 98 percent of vehicles transported on the M/S *Scandinavia* from New York to Florida were covered by advance reservations to continue to ports in Florida aboard other SWC vessels. Over 93 percent of these vehicles departed for Florida on the first or second day after their arrival in Freeport. *Id.* Table 2.

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[1] For more detailed background on this case we refer those interested to the Findings of Fact and Conclusions of Law that this Court rendered in connection with the Order of September 21, 1982, denying plaintiffs' motion for a preliminary injunction.

DISCUSSION

A. STANDING

As a preliminary matter, the "case or controversy" requirement of Article III compels us to inquire whether the plaintiffs and intervenor-plaintiffs have standing to bring this action.[2] The term standing, as the Supreme Court has noted, subsumes a blend of constitutional requirements and prudential considerations. *Warth* v. *Seldin*, 422 U.S. 490, 498 (1975). Recent decisions make clear that there are at least three elements a plaintiff must establish in order to satisfy the constitutionally imposed standing requirement.

> * * * at an irreducible minimum, Art. III requires the party who invokes the court's authority to 'show [1] that he personally has suffered some actual and threatened injury as a result of the putatively illegal conduct of the defendant,' * * * [2] that the injury 'fairly can be traced to the challenged action' and [3] 'is likely to be redressed by a favorable decision,' * * *. (citations omitted).

Valley Forge Christian College v. *Americans United for Separation of Church and State*, 454 U.S. 464, 472 (1982); see also *Community Nutrition Institute* v. *John R. Block*, No. 81-2191, slip op. at 7 (D.C. Cir. Jan. 21, 1983).

Beyond the constitutional requirements of injury-in-fact, causation and redressability, there are certain prudential principles that inhere within the concept of standing. One of these considerations is simply that a plaintiff generally must assert his own legal rights and cannot rest his claim for relief on the legal rights of others. *Warth* v. *Seldin*, 422 U.S. at 499. Also, of particular significance to the question of whether the present litigants possess standing, the interest sought to be protected by a complainant must fall "arguably within the zone of interests to be protected or regulated by the statute or constitutional guarantee in question, *Association of Data Processing Service Orgs.* v. *Camp*, 397 U.S. 150, 153 (1970).

With these general principles in mind, we turn to address the standing of the individual plaintiffs and intervenor-plaintiffs.

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[2] At the time we denied plaintiffs' motion for a preliminary injunction, we noted that we had "substantial doubt" as to whether the original plaintiff had standing but, since the issue was neither fully briefed nor argued at that time, we reserved the issue and assumed for the sake of argument that the plaintiffs had standing. Excerpt from Transcript of Proceedings of Hearing on Motion for Preliminary Injunction, at 1. Similarly, in our Order of October 1, 1982, granting the motion by Acadian Shipping Corporation (then d.b.a. Aquilla Partner Corporation) to intervene in this action, we expressly reserved the question of the intervenor's standing.

1. *Plaintiff Motor Carriers*

The original plaintiffs are all associated with the carriage of automobiles by land between New York and Florida. While these plaintiffs may have succeeded in demonstrating sufficient loss to their businesses to meet the injury-in-fact requirement of Art. III standing, we conclude that they clearly fail to meet two other standing requirements. First, plaintiffs have not shown that the injury to their businesses is likely to be redressed by an order of this Court enjoining SWC from operating its cruise service, when U.S.-flag carriers, particularly intervenor-plaintiff Acadian Shipping Corporation, are poised to enter the business of ferrying automobiles between New York and Florida. Secondly, plaintiff motor carriers have also failed to demonstrate that they fall within the "zone of protected interests" under U.S. cabotage laws.

One of the constitutionally imposed requirements of standing is a showing that the injury is likely to be redressed by a favorable decision. *Valley Forge Christian College* v. *Americans United For Separation of Church and State*, 454 U.S. at 472. In other words, there must be an adequate connection between the alleged injury and the relief requested of the Court. Recently, the D.C. Circuit, in the course of reversing a District Court dismissal of a consumer challenge to certain milk marketing orders on the ground that the consumers lacked standing, instructed us not to place too heavy a burden on the plaintiff to prove redressability. *Community Nutrition Institute* v. *John R. Block*, No. 81-2191, slip op. at 15-16. The court held that it would be unreasonable to require a plaintiff to prove that granting the requested relief is *certain* to alleviate his injury. *Id.*, at 15.

In the present case, however, plaintiff motor carriers have not made out a creditable case that there is even a slim *possibility* that their injury will be redressed by our action. Plaintiffs fails to show that the relief they seek will prevent other U.S. water carriers, particularly one of the intervenor-plaintiffs in this action, from competing with their business of transporting vehicles by land and thus eroding their market position. Therefore, plaintiffs have wholly failed to satisfy the redressability requirement of Art. III standing.

Plaintiffs also lack standing, under the prudential branch of standing, because they do not fall within the "zone of protected interests" under U.S. coastwise law, since they are not in the business of *waterborne* carriage of cargo between U.S. ports.[3] To come within the zone of interests the complaining parties must have stated an interest which is arguable from the face of the statute. *Tax Analysts & Advocates* v. *Blumenthal*, 566 F. 2d 130, 142 (D.C.

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[3] Two of the plaintiff motor carriers, Autolog and Auto Express, also appear to allege standing as *potential* entrants into the coastwise transport of automobiles between New York and Florida. According to testimony given at the preliminary injunction hearing, however, the plaintiffs were merely exploring the possibility of entry into the business of coastwise water carriage. Such speculative future conduct is not, in our view, sufficient to bring them within the zone of protected interests under U.S. coastwise law.

Cir. 1977), *cert. denied,* 434 U.S. 1086 (1978).[4] The relevant statutes for this purpose are 46 U.S.C. § 289 (1976), which prohibit foreign-flag vessels from transporting passengers between U.S. ports, and 46 U.S.C. § 883 (Supp. IV 1980) (the Jones Act), which prohibits foreign-flag vessels from transporting merchandise between U.S. ports.

Neither of these statutes, on their face, protect U.S. *land* carrier from competition via water by foreign vessels. The purpose of these statutes is to protect and foster the U.S. merchant marine. Without a showing of more than mere adverse competitive impact, the plaintiff motor carriers do not qualify as persons entitled to protection under these statutes. *See Control Data Corporation* v. *Baldridge,* 655 F. 2d 283, 295 (D.C. Cir.) *cert. denied,* 454 U.S. 881 (1981).

Plaintiffs also seek to establish standing under the Interstate Commerce Act, 49 U.S.C. § 10922 (Supp. IV 1980) (formerly 49 U.S.C. § 909), on the ground that defendant SWC failed to obtain a certificate of convenience and necessity from the ICC. We agree with defendant SWC that since there has been no showing that it would be denied such a certificate if it had sought one, the causation element of the injury-in-fact aspect of standing is missing.

For all of the above-described reasons, we hold that plaintiff motor carriers lack standing.

2. *Intervenor-Plaintiffs, SIU and the U.S.-Flag Water Carriers*

The four intervenor-plaintiffs are all associated in one way or another with the U.S. maritime industry. Intervenor-plaintiff SIU represents unlicensed seaman who serve as the crews of U.S.-flag vessels which engage in deep sea, Great Lakes and inland waterway commerce in cargo and passengers. SIU does not, however, possess any members who are currently serving as the crews of U.S.-flag vessels engaged in the coastwise trade between New York and Florida. As a consequence, defendants argue that SIU has suffered no concrete injury-in-fact.

Two of the other intervenor-plaintiffs, Drummon Lighterage Company (Drummond) and Trailer Marine Transport Company (TMT), are both operators of U.S.-flag vessels, which are qualified to engage in the U.S. coastwise trade. Since neither of these lines is *presently* in the business of transporting cargo between New York and Florida, nor does either line carry or plan to carry any passengers, defendants again argue that intervenor-plaintiffs lack standing because they fail to allege sufficient injury-in-fact.

The fourth intervenor-plaintiff, Acadian Shipping Corporation (Acadian) (formerly doing business as Aquilla Partner Corporation), is allegedly in the process of acquiring a vessel from the U.S. Maritime Administration, which it plans to operate in the business of ferrying vehicles between New York and Florida. Defendants contend that Acadian's interest is too tenuous to support standing because Acadian's contract to acquire the vessel in question is subject to numerous contingencies and because Acadian's proposed service, even if it ultimately goes into operation, will not compete directly with defendant SWC's combined passenger-auto cruise service.

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[4] Although the U.S. Supreme Court has not undertaken to establish guidelines for applying the zone of interests test, and therefore, some have suggested that the zone standard has been abandoned, this Circuit has reaffirmed the existence of the zone test. *Control Data Corp.* v. *Baldridge,* 655 F. 2d 283, 291 (D.C. Cir.), *cert. denied,* 454 U.S. 881 (1981).

Although we are aware that complainants must allege perceptible and concrete injuries rather than mere conjectural and hypothetical damages in order to satisfy the injury-in-fact aspect of Art. III standing, *Public Citizen* v. *Lockheed Aircraft Corp.*, 565 F. 2d 708, 715 (D.C. Cir. 1977), we find that the intervenor-plaintiffs satisfy the injury-in-fact element in this case. Regarding the seamen's union, it will supply the crew for the U.S. vessel which intervenor Acadian plans to operate in the New York to Florida trade under the terms of a fleetwide collective bargaining agreement entered into between the vessel's operator and the SIU.[5] Thus, SIU will suffer direct and immediate loss if intervenor-plaintiff Acadian's proposed service is competitively damaged by defendant's SWC's present operation.

Similarly, the opportunity for U.S.-flag operators Drummond and TMT to enter service between New York and Florida may be directly curtailed by defendant SWC's current cruise service. Acadian, as a declared entrant into the U.S. coastwise trade between New York and Florida, has demonstrated a sufficient threat of immediate harm to establish injury-in-fact. *See Public Citizen* v. *Lockheed Aircraft Corp.*, 565 F. 2d at 714–15.

Although we hold, albeit with some reluctance, that these four intervenor-plaintiffs have sustained their burden of demonstrating injury-in-fact, they do not appear to fall within the zone of interests protected by 46 U.S.C. § 289, which prohibits the carriage of *passengers* between U.S. ports aboard foreign-flag vessels. Since none of U.S.-flag carriers involved in this case are presently carrying passengers or propose to carry passengers in the future, they are not entitled to assert the protection afforded by section 289.[6]

We are not moved by the bootstrap argument of intervenor-plaintiffs Drummond, TMT and Acadian that they fall within the zone of interests protected by 46 U.S.C. § 289 (relating to passengers) as well as the zone protected by the Jones Act, 46 U.S.C. § 883 (relating to cargo). Intervenor-plaintiffs contend that sections 289 and 883 must be read *in pari passu* because both provisions share an identity of purpose, namely, to preserve the monopoly in U.S. coastwise trade for U.S. vessels. Memorandum of Points and Authorities in Support of Intervenor-Plaintiffs for Summary Judgment, at 38. While the overall purpose behind U.S. cabotage laws may in fact be the same, effect must be given to the scope and language of each individual section of those laws. For this reason, we conclude that whatever standing the intervenor-plaintiffs may have is limited and that they may only assert standing under the Jones Act, relating to the carriage of cargo.[7]

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[5] The seamen's union has previously been held to have standing to challenge violations of U.S. maritime law. *See Curran* v. *Laird*, 420 F. 2d 122, 126 (D.C. Cir. 1969) (American sailors have standing to challenge executive action in disregarding statutory mandate to use U.S. vessels for transportation of military cargo).

[6] Although members of intervenor-plaintiff SIU allegedly crew certain passenger vessels, in this instance their claim is derivative—based on the future cargo service planned by intervenor-plaintiff Acadian—and thus, SIU does not have standing under the passenger-related statute, 46 U.S.C. § 289.

B. MERITS OF INTERVENOR-PLAINTIFFS' CLAIM UNDER THE JONES ACT, 46 U.S.C. § 883

The intervenor-plaintiffs allege that defendant SWC's carriage of passengers' personal vehicles violates the Jones Act because it involves the transportation of "merchandise" on foreign-flag vessels between U.S. ports via a foreign port. Section 27 of the Merchant Marine Act of 1920 (referred to as the Jones Act) provides:

> No *merchandise* shall be transported by water, or by land and water, on penalty of forfeiture of the *merchandise* * * * between points in the United States * * * either directly or via a foreign port, or for any part of the transportation, in any other vessel than a vessel built in and documented under the laws of the United States and owned by persons who are citizens of the United States * * *. (emphasis supplied).

46 U.S.C. § 883.

The Jones Act prohibits the carriage of "merchandise" between U.S. ports on foreign-flag vessels even indirectly via a foreign port, if the intervening stopover involves a "simple transshipment." *American Maritime Ass'n* v. *Blumenthal*, 590 F. 2d 1156, 1165 (D.C. Cir. 1978), *cert. denied*, 441 U.S. 943 (1979).

The statute now known as the Jones Act was amended by Congress in 1893 [8] to close a loophole created by the decision in *United States* v. *250 Kegs of Nails*, 52 F. 231 (D.Cal. 1892), *aff'd*. 61 F. 410 (9th Cir. 1894). In that case, the government unsuccessfully sought forfeiture of 250 kegs of nails which had been transported in a Belgium vessel from New York to Antwerp, there unloaded and reloaded upon a British vessel, which then transported the same nails to California. At the time of that decision, the Jones Act did not contain the phrase "either directly or via a foreign port" and thus, the statutory ban was held not to encompass the shipment of merchandise between two U.S. ports indirectly by way of a foreign port aboard two different vessels. By adding those words to the Jones Act, Congress plugged the loophole regarding "simple transshipment" from a foreign port. *See American Maritime Ass'n* v. *Blumenthal*, 590 F. 2d at 1165.

Since it is evident that defendant SWC could not avoid the Jones Act prohibition by simple transshipment in a foreign port using two separate vessels,[9] the crucial inquiry in this case is whether or not passengers' accompanied vehicles constitute "merchandise" within the meaning of the statute. Defendant SWC does not transport automobiles except when they are accompanied by their owners. Therefore, defendant SWC argues, with support from the federal defendants, that SWC's transport of passengers' personal vehicles must be considered accompanied baggage rather than "merchandise" within the meaning of the statute. Moreover, the defendants contend that their position is supported by the Customs Service, which issued two letters stating that SWC's proposed Bahamas services would not violate the Jones Act. Exhibits I & J to the Motion by Defendant SWC for Summary Judgment.

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[7] For reasons similar to those stated above, *supra* at pp. 8-9, we also find that the intervenor-plaintiffs lack standing under the Interstate Commerce Act.

[8] Act of February 15, 1893, ch. 117, 27 Stat. 455.

Intervenor-plaintiffs, on the other hand, maintain that passenger personal vehicles must be considered "merchandise" in light of the plain meaning of the statute and because Customs Service rulings to the contrary are either erroneous or inapplicable. As one basis for this argument, plaintiffs point to the fact that the vast majority of vehicles transported by SWC from New York to Freeport are booked through to Florida and leave for Florida within 2 days after their arrival in Freeport. Thus, plaintiffs argue that, although these vehicles are accompanied baggage in one sense, they must also be considered "merchandise" because the purpose of their owners is to transport their vehicles to Florida however temporary their stay. Memorandum of Points and Authorities in Support of Motion of Intervenor-Plaintiff TMT, Drummond and Acadia at 25–26.

According to the intervenor-plaintiffs, their argument that passengers' vehicles must be considered "merchandise" also rests on the plain meaning of the fifth proviso of the Jones Act. That section reads in pertinent part:

> *Provided further*, That this section shall not apply to the transportation of merchandise loaded on railroad cars or to motor vehicles with or without trailers, and with their passengers or contents when accompanied by the operator thereof, when such railroad cars or motor vehicles are transported in any railroad car ferry operated on the Great Lakes * * *.

46 U.S.C. § 883.

Applying the principle *expressio unius est exclusio alterius*, intervenor-plaintiffs reason that absent such express statutory exception, the transportation of a motor vehicle accompanied by its operator is prohibited by the Jones Act. In effect, intervenor-plaintiffs ask us to conclude that although the term "merchandise" was undefined in the original statute, that Congress, by subsequently excluding accompanied autos on Great Lakes ferries, implicitly defined the term "merchandise" to include such accompanied vehicle.

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[9] Although we do not reach the issue of whether defendant SWC's service violates 46 U.S.C. § 289 because we have determined that intervenor-plaintiffs lack standing thereunder, if we were to reach this issue, we would hold that section 289's ban on the transportation of passengers between U.S. ports indirectly via a foreign port, does not apply when *two* vessels are employed, as in the SWC service.

For several reasons, however, we must reject intervenor-plaintiffs reasoning and hold as a matter of law that defendant SWC's cruise operation does not violate the Jones Act. First, the intervenors' argument, to the extent that it rests on statutory construction, is unpersuasive because there is no evidence that when Congress added the fifth proviso it intended to define the previously undefined term "merchandise." The legislative history behind the passage of the fifth proviso does not in any way indicate that by its adoption Congress was attempting to define "merchandise." *See Great Lakes Car Ferries Hearings Before House Comm. on Merchant Marine and Fisheries,* 74th Cong., 1st Sess. 12–13 (1935); *see also* Exhibit J to Memorandum of Points and Authorities in Support of Defendant SWC's Motion for Summary Judgment.

A second reason for rejecting the intervenors' position that accompanied vehicles are "merchandise" lies in the consistent line of Customs rulings holding that accompanied automobiles are *not* merchandise. As previously mentioned, Customs issued two rulings expressly upholding defendant SWC's cruise service under the Jones Act well before it was inaugurated. *Id.,* Exs. I & J. These rulings followed several prior rulings in which the agency addressed the same issue. On earlier occasions, the Customs Service expressed the "opinion that an automobile may be treated as a personal belonging accompanying passengers or, in other words, as accompanied baggage, and therefore, there would not, on the voyage in question, be a violation of section 883, Title 46, United States Code." Customs Ruling 216.131 (May 25, 1970); *see also* Customs Ruling 101818 (Nov. 4, 1975). Although the intervenors suggest that these Customs rulings are only entitled to "some deference," we find them persuasive both because the term "merchandise" is not defined in the statute and because such rulings emanate from the agency charged with enforcing this law.

Lastly, we are convinced that intervenor-plaintiffs' interpretation must be rejected from a common sense evaluation of the term "merchandise." The vehicles which are carried aboard defendant SWC's vessels have all the attributes of baggage: they are carried aboard the vessels by their operators, remain accessible during the voyage and can be used for storage throughout such cruise. Although vehicles are not customarily thought of as baggage, we feel that in this context it would be absurd to consider them other than passengers' accompanied baggage and therefore, outside the scope of the term "merchandise" under the Jones Act.[10]

For all of the foregoing reasons, we must grant defendant SWC's motions, and the motion of the federal defendants, in the alternative, for summary judgment and deny intervenor-plaintiffs' cross-motions for partial summary judgment on the ground that there is no dispute as to any material fact and that defendants are entitled to judgment as a matter of law on the issue presented under the Jones Act.

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[10] We do not suggest that a person might claim that a fleet of vehicles constitutes accompanied baggage for purposes of evading the Jones Act prohibition. Obviously, such a blatant evasion of the Jones Act would call for a different reading of the term "merchandise."

C. UNOPPOSED MOTION OF DEFENDANT SCANDINAVIAN WORLD CRUISES, INC. (SWCI) TO DISMISS FOR LACK OF PERSONAL JURISDICTION, INSUFFICIENT SERVICE OF PROCESS AND IMPROPER VENUE

Co-defendant SWCI moved to be dismissed from this action on the grounds of lack of personal jurisdiction, insufficient service of process and improper venue pursuant to Fed.R.Civ.P. 12(b)(2), (3) and (5). Defendant SWCI is apparently a non-operating corporate entity which is allegedly separate and distinct from defendant SWC. Plaintiffs served SWCI by mail at the address of defendant SWC but this service is not sufficient under Fed.R.Civ.P. 4(d)(3), which calls for personal service to be made upon SWCI's registered agent. Since intervenor-plaintiffs have not bothered to oppose SWCI's motion to dismiss, we grant the motion on the ground of insufficient service of process without reaching the other grounds for dismissal raised by defendant SWCI.

An order consistent with the foregoing has been entered this day.

JOHN H. PRATT,
U.S. District Judge.

March 8th, 1983.

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

AUTOLOG CORPORATION, ET AL., PLAINTIFFS *v.* DONALD T. REGAN, SECRETARY OF THE TREASURY, ET AL., DEFENDANTS

(Civil Action No. 82-2275)

ORDER

Upon full consideration of the motions for summary judgment by defendant Scandinavian World Cruises (Bahamas) Ltd. and by the federal defendants and the oppositions thereto; the unopposed motion to dismiss by defendant Scandinavian World Cruises, Inc.; the cross-motions by intervenor-plaintiffs for partial summary judgment and the oppositions thereto; and upon consideration of the entire record herein, it is by the Court this 8th day of March, 1983,

Ordered that the motions by defendant Scandinavian World Cruises (Bahamas) Ltd. for summary judgment be and the same hereby are granted; and it is

Ordered that the motion by the federal defendants in the alternative for summary judgment be and the same hereby is granted; and it is

Ordered that the cross-motions by intervenor-plaintiffs for partial summary judgment be and the same hereby are denied, and it is

Ordered that the unopposed motion of defendant Scandinavian World Cruises, Inc. to dismiss be and the same hereby is granted; and it is

Further ordered that this action is dismissed.

JOHN H. PRATT,
U.S. District Judge.

(19 CFR Parts 10 and 143)

(T.D. 83-82)

Informal Entry for United States Goods Returned

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to establish informal entry procedures, pursuant to section 202 of Pub. L. 96-609, for certain products of the United States which have not been advanced in value or improved in condition while abroad. The purpose of the amendments is to allow importers of these products to use the informal entry procedures which are less costly, complex, and time consuming than the formal entry procedures.

EFFECTIVE DATE: May 5, 1983.

FOR FURTHER INFORMATION CONTACT: Operational Aspects: Herbert Geller, Duty Assessment Division (202-566-5307); Legal Aspects: Darrell D. Kast, Entry Procedures and Penalties Division (202-566-5874), U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

BACKGROUND

All merchandise imported into the customs territory of the United States must be "entered." The entry of that merchandise means that the consignee (or importer, or agent of either) has filed with the appropriate Customs officer the documentation required to secure the release of the imported merchandise from Customs custody. Generally, shipments of merchandise valued at $250 or less are permitted to be entered under an "informal entry." An informal entry is one in which documentation requirements are held to a minimum (usually a single brief Customs form), and release of the merchandise is immediate upon payment of any estimated duties and taxes. Section 143.21, Customs Regulations (19 CFR 143.21), lists the types of merchandise which may be entered under an informal entry, and section 143.23, Customs Regulations (19

CFR 143.23), sets forth the documentation required for such entries.

Section 202 of Pub. L. 96-609 amended section 498(a) of the Tariff Act of 1930 (19 U.S.C. 1498(a)), by providing for a new subsection (2) which permits informal entry of certain U.S. products and reads as follows:

> (2) Products of the United States, when the aggregate value of the shipment does not exceed $10,000 and the products are imported—
>
> (A) for the purposes of repair or alteration prior to reexportation, or
>
> (B) after having been either rejected or returned by the foreign purchaser to the United States for credit.

The provisions of section 202 are intended to permit the Secretary of the Treasury to prescribe informal entry procedures for the entry of products of the United States valued at $10,000 or less returned to the United States for the specified purposes. It is inevitable that some goods exported by U.S. companies will be returned to the United States for the specified purposes. The informal procedures which would be available to enter such returned goods are less costly, complex, and time consuming than the formal entry procedures, and would aid businesses, particularly small and medium sized businesses, in engaging in the exportation of merchandise. Whereas the formal entry procedure ordinarily requires the services of a customhouse broker, the posting of bonds, a formal appraisement of the merchandise, and the like, the informal entry procedure generally requires no bond, no formal appraisement, and permits the entry documents to be filled out by the importer. Under this procedure, the Customs officer examines, appraises, classifies, and releases the merchandise to the importer upon payment of duties and taxes.

In light of Pub. L. 96-609, on March 18, 1982, Customs published a notice in the Federal Register (47 FR 11706), proposing to add a new paragraph (j) to section 143.21 to permit informal entry for those products of the United States described in section 202 of Pub. L. 96-609. In addition, a new paragraph (h) would be added to section 143.23 to specify that Customs Form 3311 will serve as the informal entry document for products of the United States returned for purposes of repair or alteration prior to reexportation, and that Customs Forms 3311 and 7501 are required for United States products returned either rejected or for credit. Lastly, a new paragraph (j) would be added to section 10.1, Customs Regulations (19 CFR 10.1), setting forth the informal entry procedures for qualifying United States products returned (referencing the requirements stated in new section 143.23(h)).

Pursuant to the notice, interested parties were given until May 17, 1982, to submit comments on the proposal. After consideration of the three comments received, the amendments to Parts 10 and 143 are being adopted as proposed.

DISCUSSION OF COMMENTS

While all three of the commenters supported the proposal, one offered several additional recommendations.

The commenter recommends that Customs should eliminate the distinction between Customs Forms 7501 and 3311 for entry of American goods returned within the scope of section 202 of Pub. L. 69-609, and generally, to authorize use of Customs Form 7501 for any type of informal entry. Due to the requirements of the Bureau of Census to publish statistics concerning imports, Customs notes that Customs Form 7501 must remain a requirement. Customs Form 3311 is required for ascertainment of the duty-free status of the merchandise. Also, section 143.23(f) provides for the use of Customs Form 7501 for merchandise released under the immediate delivery procedure or the entry documentation required by section 142.3(a). The commenter also suggests that Customs increase the value limitation for informal entries from the present $250 to $1000. Customs notes that the value limitation of $250 is statutory, any increase in the amount would require Congressional action, and the suggestion is beyond the scope of these amendments.

EXECUTIVE ORDER 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

REGULATORY FLEXIBILITY ACT

It is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule will not have a significant economic impact on a substantial number of small entities.

DRAFTING INFORMATION

The principal author of this document was Charles D. Ressin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

LIST OF SUBJECTS IN 19 CFR

Part 10: Customs duties and inspection, imports, exports
Part 143: Customs duties and inspection, imports

AMENDMENTS TO THE CUSTOMS REGULATIONS

Parts 10 and 143, Customs Regulations (19 CFR Parts 10, 143), are amended as set forth below:

WILLIAM VON RAAB,
Commissioner of Customs.

Approved: March 17, 1983.
JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, April 5, 1983 (48 FR 14595)]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

§ 10.1, Customs Regulations (19 CFR 10.1), is amended by adding a new paragraph (j) to read as follows:

§ 10.1 DOMESTIC PRODUCTS; REQUIREMENTS ON ENTRY.

* * * * * * *

(j) In the case of products of the United States, when the aggregate value of the shipment does not exceed $10,000 and the products are imported—

(1) For the purposes of repair or alteration, prior to reexportation, or

(2) After having been either rejected or returned by the foreign purchaser to the United States for credit, free entry thereof may be made under item 800.00, Tariff Schedules of the United States, on Customs Form 3311, (a Customs Form 7501 must be submitted as well for articles, described in paragraph (b) of this section and 143.23(h) of this chapter) executed by the owner, importer, consignee, or agent and filed in duplicate, without regard to the requirement of a certificate of exportation or evidence of similar purport, unless the Customs officer has reason to believe that Customs drawback or exemption from internal revenue tax, or both, were probably allowed on exportation of the articles or that they are otherwise subject to duty. The person making entry shall show on Customs Form 3311 the name of the importing conveyance, the date of its arrival, the name of the country from which the articles were returned to the United States, and the value of the articles. The person making entry shall also produce evidence of his right to make entry (except as provided in § 141.11(b) of this chapter). If the Customs officer is not entirely certain that the articles to be entered under this paragraph by a nominal consignee are products of the United States, the actual owner or ultimate consignee thereof may be required to execute a Customs Form 3311.

(R.S. 251, as amended (19 U.S.C. 66), section 481, 46 Stat. 789 (19 U.S.C. 1481), section 484, 46 Stat. 722, as amended (19 U.S.C. 1484), section 498, 46 Stat. 728, as amended (19 U.S.C. 1498), section 624, 46 Stat. 759 (19 U.S.C. 1624))

PART 143—CONSUMPTION, APPRAISEMENT AND INFORMAL ENTRIES

1. § 143.21, Customs Regulations (19 CFR 143.21), is amended by adding a new paragraph (j) to read as follows:

§ 143.21 **MERCHANDISE ELIGIBLE FOR INFORMAL ENTRY.**

* * * * * * *

(j) Products of the United States, when the aggregate value of the shipment does not exceed $10,000 and the products are imported—

(1) For the purposes of repair or alteration prior to reexportation, or

(2) After having been either rejected or returned by the foreign purchaser to the United States for credit.

2. § 143.23, Customs Regulations (19 CFR 143.23), is amended by adding a new paragraph (h) to read as follows:

§ 143.23 **FORM OF ENTRY.**

* * * * * * *

(h) Products of the United States being returned for which informal entry is permitted by § 143.21(j), may be cleared as follows:

(1) For products of the United States returned for the purposes of repair or alteration prior to reexportation, Customs Form 3311 will serve as informal entry.

(2) For products of the United States after having been either rejected or returned by the foreign purchaser for credit, Customs Form 7501, annotated "informal entry" in the upper right hand corner, and Customs Form 3311 will serve as informal entry.

(R.S. 251, as amended (19 U.S.C. 66), section 481, 46 Stat. 789 (19 U.S.C. 1481), section 484, 46 Stat. 722, as amended (19 U.S.C. 1484), section 498, 46 Stat. 728, as amended (19 U.S.C. 1498), section 624, 46 Stat. 759 (19 U.S.C. 1624))

(T.D. 83-83)

Bonds

Approval and discontinuance of bonds on Customs Form 7587 for the control of Instruments of International Traffic of a kind specified in section 10.41a of the Customs Regulations.

Bonds on Customs Form 7587 for the control of instruments of international traffic of a kind specified in section 10.41a of the Customs Regulations have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: March 30, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Batlle & Clisante Shipping Co., Inc., P.O., Box 5126, San Juan, PR; St. Paul Fire & Marine Ins. Co. D 3/7/83	Dec. 23, 1975	Dec. 24, 1975	San Juan, PR $10,000
Dart Containerline Inc., Five World Trade Center, New York, NY; Washington International Ins. Co. (PB 7/1/82) D 2/18/83 [1]	Feb. 2, 1983	Feb. 18, 1983	New York Seaport $10,000
Ecuadorian Line Inc., 19 Rector St., New York, NY; American Motorists Ins. Co	Mar. 18, 1983	Mar. 18, 1983	New York Seaport $10,000
The F & M Schaefer Brewing Co., 1101 S. Conkling St., Baltimore, MD; Commercial Union Ins. Co D 1/24/83	July 1, 1977	July 22, 1977	Baltimore, MD $10,000
Fike Chemicals, Inc., P.O. Box 546, Nitro, WV; U.S. Fidelity & Guaranty Co	Jan. 7, 1983	Feb. 18, 1983	New York Seaport $10,000
Flav-O-Rich Industries, P.O. Box BU; San Juan, PR; Federal Ins. Co	Jan. 26, 1983	Feb. 8, 1983	San Juan, PR $15,000
Food Source, Inc., 900 Larkspur Landing (rkspur, CA; Fidelity & Deposit C of MD	Jan. 26, 1983	Feb. 2, 1983	San Fran., CA $10,000
Intercontinental Transportation Services, Ltd., P.O. Box 797, Hamilton 5, Bermuda; The American Ins. Co. (PB 1/15/81) D 2/7/83 [2]	Jan. 15, 1983	Feb. 9, 1983	Houston, TX $50,000
Mobay Chemical Corp., Penn Lincoln Pkwy West, Pittsburgh, PA; Ins. Co. of North America (PB 9/2/80) D 2/28/83 [3]	Mar. 1, 1983	Mar. 1, 1983	New Orleans, LA $10,000
Mobil Chemical Corp., Atlee-Elmont Exit at I-95, Richmond, VA; Old Republic Ins. Co	Feb. 11, 1983	Mar. 15, 1983	Charleston, SC $10,000
Neutron Products, 8247 Dickerson St., Baltimore, MD; Washington Int'l Ins. Co	Feb. 9, 1983	Feb. 15, 1983	Baltimore, MD $10,000
Pacific Mexico Container Line (Paxicon), Inc., (A Calif. Corp.), 300 Montgomery St. San Francisco, CA, Washington Int'l Ins. Co. D 2/25/83	Apr. 1, 1981	Apr. 1, 1981	Los Angeles, CA $50,000
Seabulk Caribbean, Ltd., c/o: Strachan Shipping Co., P.O. Box 2127, Mobile, AL; St. Paul Fire & Marine Ins. Co	Feb. 9, 1983	Mar. 10, 1983	Mobile, AL $10,000
Uniroyal, Inc., a NJ Corp., Middlebury, CT; American Home Assurance Co	Jan. 26, 1983	Feb. 2, 1983	New York Seaport $10,000

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[1] Principal is Dart Orient Services Inc.

[2] Surety is Safeco Ins. Co. of America.

[3] Principal is Mobay Chemical Corp. (Agricultural Chemical Division).

BON-3-10

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-84)

Drawback Contract—Woven Piece Goods

The proposed Customs Regulations revision of Part 22 relating to drawback was published in the Federal Register, August 26, 1982. Section 22.6(a) through (i) of the regulations, relating to general drawback rates is being removed from the revision to the regulations, Part 191. This section is not of sufficient general applicability to be included in the revision. However, no member of the public would be forfeiting any rights and benefits by its removal. As advised in the Notice of Proposed Rulemaking, 47 FR 37568, general drawback contracts would be published as Treasury Decisions designed to take the place of the eliminated section. The following is one such contract.

File: DRA-1
215673

Dated: March 29, 1983.

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

Drawback Contract Under 19 U.S.C. 1313(a) for Articles Manufactured With the Use of Imported or Drawback Woven Piece Goods

Drawback may be allowed under the provisions of section 313(a), Tariff Act of 1930, upon the exportation of bleached, mercerized, printed, dyed, or redyed piece goods manufactured or produced by any one or a combination of the foregoing processes with the use of imported or drawback woven piece goods, subject to the following special requirements:

(1) The records of the manufacturer or producer shall show, as to each lot of piece goods manufactured or produced for exportation with benefit of drawback, the lot number and the date or inclusive dates of manufacture or production, the quantity, identity, and value of the imported or drawback piece goods used, the condition in which imported or received (whether in the gray, bleached, dyed, or mercerized), the working allowance specified in the contract under which they are received, the process or processes applied

thereto, and the quantity and description of the piece goods obtained.

(2) The records also shall show the yardage lost by shrinkage or gained by stretching during manufacture, and the quantity of remnants resulting and of spoilage incurred.

(3) Further, the records shall show the quantity of rag waste incurred and its value. In instances where it is impractical to account for the actual quantity of rag waste incurred, it shall be assumed in liquidation that such rag waste constituted 2 percent of the piece goods put into process.

(4) The piece goods manufactured or produced hereunder may also be subjected to one or more finishing processes.

(5) An abstract of the manufacturing or production records shall be filed with the drawback entry.

(6) The quantity of piece goods upon which drawback may be allowed shall be computed as follows: Deduct from the quantity of piece goods received the quantity of remnants and spoilage, if any, incurred, the proper allowance to be made for shrinkage or stretch, if any, occurring during manufacture or production. Reduce the remaining quantity by the quantity thereof which the value of the rag waste will replace. When necessary for the purposes of liquidation, the value of the imported or drawback piece goods used shall be furnished by the owner.

(7) The drawback allowance shall not exceed the duty paid, less 1 percentum thereof, on the net quantity of finished piece goods exported, determined as above, as shown by the abstract of the manufacturing or production records; or, in the case of piece goods manufactured or produced hereunder with the use of drawback piece goods, the drawback accruing to such net quantity, as established by the abstract of the manufacturing or production records and the certificates of manufacture and delivery covering the drawback piece goods concerned.

(8) Drawback shall not be allowed hereunder when the process performed results only in the restoration of the articles to their condition at the time of importation.

(9) Each manufacturer or producer of articles covered by the above drawback rate shall submit to the regional commissioner where drawback entries will be filed, a statement in duplicate describing the methods used in the manufacture or production of the products involved and setting forth the records it agrees to keep for the purpose of complying with the drawback law and regulations and for providing all the data required for the proper liquidation of certificates of manufacture and drawback entries filed hereunder. If the statement shows that the methods and records described therein enable the manufacturer or producer to comply with the law and regulations, the regional commissioner shall approve the statement and promptly notify the applicant, in writing, of such action.

If drawback entries are to be liquidated at more than one regional office, two additional copies of the statement shall be required for each additional office. In such case, the regional commissioner at the place first listed in the drawback statement shall approve the statement, if that action is warranted, and promptly notify the applicant, in writing, of such action.

Revised statements covering changes in drawback statements filed under this Treasury Decision shall be handled in accordance with the previously discussed provisions.

The allowance of drawback on articles covered by this Treasury Decision shall be subject to compliance with the applicable provisions of Part 191.

(T.D. 83-85)

Bonds

Approval and discontinuance of Carrier's Bonds, Customs Form 3587

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: April 7, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
A.A.R. Trucking Corp., 143-40 14th Ave., Whitestone, NY; motor carrier; Old Republic Ins. Co.	Nov. 30, 1982	Feb. 24, 1983	New York Seaport $100,000
Acadian Express Service Ltd., 1950 Ellesmere Rd., Scarborough, Ontario, Canada; motor carrier; Washington International Ins. Co.	Mar. 17, 1983	Mar. 17, 1983	Buffalo, NY $50,000
Alterman Transport Lines, Inc., Opa Locka, FL; motor carrier; Washington International Ins. Co. (PB 12/16/68) D 12/1/82 [1]	Dec. 1, 1982	Dec. 1, 1982	Miami, FL $50,000
Emilio Barbosa-Velez, Inc., GPO Box 1286, San Juan, PR; motor carrier; Puerto Rican-American Ins. Co. (PB 2/19/82) D 2/11/83 [2]	Jan. 20, 1983	Feb. 11, 1983	San Juan, PR $25,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Barker Transportation, 224 Stratus, El Paso, TX; contract motor carrier; American Employers Ins. Co. D 3/7/83	Mar. 23, 1981	Mar. 24, 1981	El Paso, TX $25,000
Blue Marine Transportation, Inc., 443 Terry Pkwy, Gretna, LA; motor carrier; St. Paul Fire & Marine Ins. Co.	Mar. 8, 1983	Mar. 18, 1983	New Orleans, LA $25,000
C & D Transportation Co., Inc., 186 Valley St., Providence, RI; motor carrier; Peerless Ins. Co.	Jan. 27, 1983	Mar. 1, 1983	Providence, RI $50,000
Coughlin Transportation, Inc., 27050 Wick Rd., Taylor, MI; motor carrier; Washington International Ins. Co.	Mar. 10, 1983	Mar. 14, 1983	Detroit, MI $50,000
Crystal Motor Express, Inc., 3 Melvin St., Wakefield, MA; motor carrier; St. Paul Fire & Marine Ins. Co.	Mar. 8, 1983	Mar. 23, 1983	St. Albans, VT $25,000
W. L. Davis, 15311 Tricia Lane, La Mirada, CA; motor carrier; South Carolina Ins. Co. (PB 1/10/80) D 3/8/83 [3]	Mar. 1, 1983	Mar. 8, 1983	Nogales, AZ $50,000
Equipos de Borinquen, Inc., GPO Box 2534, San Juan, PR; motor carrier; Puerto Rican-American Ins. Co. (PB 2/19/82) D 2/11/83	Jan. 20, 1983	Feb. 11, 1983	San Juan, PR $25,000
F. B. Truck Line Co., 1945 S. Redwood Rd., Salt Lake City, Utah; motor carrier; National Union Fire Ins. Co. of Pittsburgh, PA D 3/1/83	Sept. 29, 1982	Oct. 15, 1982	San Francisco, CA $25,000
Fobasco Ltd.—a div. of Melburn Truck Lines			
Four Winds Van Lines, Inc., 7035 Convoy Ct., San Diego, CA; motor carrier; American Druggists' Ins. Co. (PB 7/23/76) D 3/8/83 [4]	Dec. 15, 1982	Mar. 8, 1983	Baltimore, MD $50,000
G.F.C., Inc., 227 Old Dominion Dr., Charleston, SC; motor carrier; Fidelity & Deposit Co. of MD (PB 3/3/81) D 3/3/83 [5]	Mar. 1, 1983	Mar. 3, 1983	Charleston, SC $25,000
Gemini Trucking, Inc., 1533 Broad St., Greensburg, PA; motor carrier; American Casualty Co. of Reading, PA	Jan. 26, 1983	Mar. 10, 1983	Baltimore, MD $25,000
Glosson Enterprises, Inc., Rt. 15, Box 55, Lexington, NC; motor carrier; American Manufacturers Mutual Ins. Co. (PB 3/22/82 D 3/21/83 [6]	Feb. 18, 1983	Mar. 21, 1983	Charleston, SC $25,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Joe Hodges Transportation Corp., 1911 N.W. 1st St., Oklahoma City, OK. motor carrier; Ins. Co. of North America D 2/28/83	May 25, 1976	July 14, 1976	Houston, TX $25,000
ll-Pac Coast Transportation Co., 1601 Market St., Madison, ILL; motor carrier; The Continental Ins. Co.	Dec. 22, 1982	Mar. 14, 1983	St. Louis, MO $50,000
MASA Transportation, Inc., 9715 Carnegie, El Paso, TX; motor carrier; St. Paul Fire & Marine Ins. Co. D 3/4/83	Mar. 10, 1982	Mar. 11, 1982	El Paso, TX $25,000
elburn Truck Lines, a div. of Fobasco Ltd., 2215 Royal Windsor Dr., Mississauga, Ontario, Canada; motor carrier; The Aetna Casualty & Surety Co.	Feb. 16, 1983	Mar. 8, 1983	Buffalo, NY $25,000
ustang Transportation, Inc., P.O. Box 1677, Slidell, LA; motor carrier; Fireman's Fund Ins. Co.	Feb. 4, 1983	Mar. 9, 1983	New Orleans, LA $25,000
t. Lawrence Freightways, Inc., 650 Cooper St., Watertown, NY; motor carrier; The Aetna Casualty & Surety Co. (PB 12/10/76) D 3/14/83	Feb. 25, 1983	Mar. 14, 1983	Ogdensburg, NY $25,000
hippers Service Transport Inc., P.O. Box 270, Bordentown, NJ; motor carrier; Aetna Casualty & Surety Co.	Feb. 24, 1983	Mar. 16, 1983	Philadelphia, PA $25,000
ajon, Inc., R.D. #5, Mercer, PA; motor carrier; Liberty Mutual Ins. Co. D 3/11/83	Apr. 30, 1981	May 5, 1981	Cleveland, OH $100,000
ransport Gelec Ltee., 1155, Boul. Brunelle, Carignan, Quebec, Canada; motor carrier; Massachusetts Bay Ins. Co.	Jan. 17, 1983	Mar. 23, 1983	St. Albans, VT $25,000
riple "S" Fast Service Corp., 75-05 Rockaway Blvd., Woodhaven, NY; motor carrier; Old Republic Ins. Co.	Dec. 30, 1982	Mar. 1, 1983	New York Seaport $100,000
ien Consolidated Airlines, Inc., P.O. Box 6247, Anchorage, AK; air carrier; Safeco Ins. Co. of America D 4/12/83	Jan. 19, 1973	Feb. 21, 1973	Anchorage, AK $25,000
illowbrook Transportation Inc., 301 Broadway, Jersey City, NJ; motor carrier; Peerless Ins. Co. D 2/17/83 [1]	Nov. 6, 1981	Nov. 23, 1981	Newark, NJ $50,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Winterland Express, Inc., 1729 13th Ave., N., Grand Forks, ND; motor carrier; U.S. Fidelity & Guaranty Co.	Feb. 25, 1983	Mar. 10, 1983	Pembina, ND $25,000

[1] Surety is Fidelity & Deposit Co. of MD.
[2] Principal is Emilio Barbosa-Velez.
[3] Surety is Ins. Co. of North America.
[4] Surety is Pacific Ins. Co.
[5] Surety is Aetna Casualty & Surety Co.
[6] Surety is Hartford Accident & Indemnity Co.
[7] Principal was published as Willowbrook Truck Lines, Inc.

BON-3-03

MARILYN G. MORRISON
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-86)

19 CFR Part 133

Recordation of Trade Name: COMBE INCORPORATED

AGENCY: U.S. Customs Service, Treasury.

ACTION: Notice of Recordation.

SUMMARY: On November 23, 1982, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "COMBE INCORPORATED" was published in the Federal Register (47 FR 52843). The notice advised that before final action on the application, consideration would be given to relevant data, views, or arguments submitted in opposition to the recordation and received not later than January 24, 1983. No responses were received in opposition to the application.

Accordingly, as provided in section 133.14, Customs Regulations (19 CFR 133.14), the name "COMBE INCORPORATED" is recorded as the trade name used by Combe Incorporated, a corporation organized under the laws of the State of Delaware, located at 1101 Westchester Avenue, White Plains, New York 10604. The trade name is used in connection with the following merchandise manufactured in several foreign countries: hair coloring; toiletries; cosmetics; odor-destroying insoles; odor-destroying hosiery; denture adhesives; pharmaceutical creams, ointments and lotions; veterinary medications and shampoos; and hair care products. Various foreign subsidiaries are authorized to use the trade name.

DATE: April 18, 1983.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5765).

Dated: April 11, 1983.

A. PIAZZA,
Acting Director, Entry Procedures and Penalties Division.

[Published in the Federal Register, April 18, 1983 (48 FR 16568)]

(T.D. 83-87)

Approval of public gauger performing gauging under standards and procedures required by Customs

Notice is hereby given pursuant to the provisions of section 151.43 of the Customs Regulations (19 CFR 151.43) that the application of PKB Scania (USA) Inc., 3308 Tulane Avenue, New Orleans, Louisiana, to gauge imported petroleum and petroleum products in the Customs District of New Orleans, New York and San Francisco, in accordance with the provisions of section 151.43, Subpart C, of the Customs Regulations is approved.

Dated: April 13, 1983.

A. PIAZZA,
Acting Director,
Entry Procedures and Penalties Division.

(T.D. 83-88)

Bonds

Approval and discontinuance of consolidated aircraft bonds (air carrier blanket bonds), Customs Form 7605

The following consolidated aircraft bonds have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: April 13, 1983.

READEX FICHE

Name of principal and surety	Date term commences	Date of approval	Filed with district director/area director/amount
Jet Way, Inc., Box 816, Ypsilanti, MI; Ins. Co. of North America D 3/22/83	Feb. 9, 1982	Mar. 8, 1982	Detroit, MI $100,000

BON-3-01

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-89)

Decision Denying Domestic Interested Party Petition Requesting Reclassification of Certain Plywood Panels: Petitioner's Desire To Contest the Decision

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of (1) decision on domestic interested party petition, and (2) receipt of notice of petitioner's desire to contest the decision.

SUMMARY: In response to a petition from a domestic interested party requesting that certain plywood panels that have been processed, be reclassified for tariff purposes under the provision for softwood plywood, in item 240.21, Tariff Schedules of the United States (TSUS), Customs invited comments with regard to the correctness of the present classification. After consideration of the comments received and further review of the matter, Customs has advised the petitioner that such plywood panels would continue to be classified as building boards, in item 245.80, TSUS. Upon being informed that its petition had been denied, the petitioner filed a notice of its desire to contest the decision.

FOR FURTHER INFORMATION CONTACT: John G. Hurley, Classification and Value Division, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8181).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On March 4, 1982, a petition was filed under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), by the American Plywood Association, a trade association which represents American manufacturers of softwood plywood, requesting that certain imported plywood panels that have been processed (i.e., tongue and grooved, edge-worked, or shiplapped), be reclassified as plywood with a face ply of softwood, in item 240.21, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), presently dutiable at 21 percent ad valorem. Such plywood panels have been classified by Customs under the provision for building boards not specially provided for, whether or not face finished, laminated boards bonded in whole or in part, or impregnated, with synthetic resins, in item 245.80, TSUS, at a lower rate of duty, following Customs ruling 069190 JLJ, dated February 12, 1982.

Specifically, the petitioner alleges that the provision for softwood plywood in TSUS item 240.21, is more specific than the provision for building boards in TSUS item 245.80, and therefore it should govern the classification of the imported panels. It is Customs position that edge-working changes plywood panels, dedicates them to a special use (i.e., as building boards), and thus prevents them from satisfying the definition of plywood in Schedule 2, Part 3, Headnote 1(b), TSUS.

A notice of receipt of the petition was published in the Federal Register on August 13, 1982 (47 FR 35391), inviting public comment. Written comments were to have been received on or before October 12, 1982. Two comments were received in response to the notice. Both opposed any change in the classification of the panels, supporting Customs position that they are correctly classified as building boards in item 245.80, TSUS.

DECISION ON PETITION AND RECEIPT OF PETITIONER'S NOTICE OF DESIRE TO CONTEST

In a letter dated December 13, 1982, the petitioner was advised that Customs had decided to continue its practice of classifying such plywood panels in item 245.80, TSUS. In response, by letter dated January 5, 1983, the petitioner filed a notice of its desire to contest the decision in accordance with section 516(c), Tariff Act of 1930, as amended (19 U.S.C. 1516(c)), and section 175.23, Customs Regulations (19 CFR 175.23).

After careful analysis of the comments received in response to the notice and further review of the matter, Customs remains of the opinion that its practice of classifying the subject panels under item 245.80, TSUS, is correct. This practice will continue provided that no decision of the United States Court of International Trade or the United States Court of Appeals for the Federal Circuit not in harmony with this practice is rendered.

AUTHORITY

This notice is being published in accordance with section 516(c), Tariff Act of 1930, as amended (19 U.S.C. 1516(c)), and section 175.24, Customs Regulations (19 CFR 175.24).

Drafting Information

The principal author of this document was Jesse V. Vitello, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: March 18, 1983.

Alfred R. De Angelus,
Acting Commissioner of Customs.

[Published in the Federal Register, April 21, 1983 (48 FR 17178)]

(T.D. 83-90)

Foreign Currencies—Quarterly List of Rates of Exchange

The table below lists rates of exchange, in United States dollars for certain foreign currencies, which are based upon rates certified to the Secretary of the Treasury by the Federal Reserve of New York under provisions of section 522(c) Tariff Act of 1930, as amended (31 USC 372(c)), for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C):

Quarterly beginning: April 1, 1983 through June 30, 1983.

Country	Name of currency	U.S. dollars
Australia	Dollar	.86450
Austria	Schilling	.058582
Belgium	Franc	.020725
Brazil	Cruzeiro	.002395
Canada	Dollar	.808604
China, P. R.	Renminbi yuan	.500225
Denmark	Krone	.116077
Finland	Markka	.182815
France	Franc	.137363
Germany	Deutsche mark	.412031
Hong Kong	Dollar	.148699
India	Rupee	.099850
Iran	Rial	N/A
Ireland	Pound	1.3020
Italy	Lira	.000692
Japan	Yen	.004174
Malaysia	Dollar	.435730
Mexico	Peso	.006410
Netherlands	Guilder	.366300
New Zealand	Dollar	.65250
Norway	Krone	.138504
Philippines	Peso	.103338
Portugal	Escudo	.010142
Republic of So. Africa	Rand	.91200

Country	Name of currency	U.S. dollars
Singapore	Dollar	.479616
Spain	Peseta	.007305
Sri Lanka	Rupee	.043535
Sweden	Krona	.132538
Switzerland	Franc	.479042
Thailand	Baht (TICAL)	.043497
United Kingdom	Pound	1.4780
Venezuela	Bolivar	.124224

(LIQ-03-01 S:C:I:)

Dated: April 1, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-91)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C)

Argentina peso:	
March 1-3, 1983	$0.000017
March 4, 1983	.000016
Chile peso:	
March 1-3, 1983	.012422
March 4, 1983	.012739
Colombia peso:	
March 1-3, 1983	.013829
March 4, 1983	.013684
Greece drachma:	
March 1, 1983	.011947
March 2, 1983	.011912
March 3, 1983	.011919
March 4, 1983	.011905
Indonesia rupiah:	
March 1-4, 1983	.001423
Israel shekel:	
March 1, 1983	.026323

March 2, 1983	.026344
March 3, 1983	.026219
March 4, 1983	.026164
Peru sol:	
March 1-3, 1983	.000892
March 4, 1983	.000877
South Korea won:	
March 1, 1983	.001329
March 2-4, 1983	.001325

(LIQ-03-01 S:C:I)

Dated: March 4, 1983.

Angela DeGaetano,
Chief,
Customs Information Exchange.

(T.D. 83-92)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to sectio 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certifie buying rates for the dates and foreign currencies shown below. Th rates of exchange, based on these buying rates, are published fo the information and use of Customs officers and others concerne pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159 Subpart C)

Argentina peso:	
March 7-11, 1983	$0.000016
Chile peso:	
March 7-10, 1983	.012739
March 11, 1983	.013333
Colombia peso:	
March 7-11, 1983	.013684
Greece drachma:	
March 7, 1983	.011998
March 8, 1983	.011976
March 9, 1983	.011905
March 10-11, 1983	.011969
Indonesia rupiah:	
March 7-10, 1983	.001423
March 11, 1983	.001422
Israel shekel:	
March 7, 1983	.026103

March 8, 1983	.026048
March 9, 1983	.026062
March 10-11, 1983	.026015
Peru sol:	
March 7-10, 1983	.000877
March 11, 1983	.000863
South Korea won:	
March 7-8, 1983	.001325
March 9-11, 1983	.001324

(LIQ-03-01 S:C:I)

Dated: March 11, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-93)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
March 14-18, 1983	$0.000016
Chile peso:	
March 14-17, 1983	.013333
March 18, 1983	.013362
Colombia peso:	
March 14-17, 1983	.013684
March 18, 1983	.013596
Greece drachma:	
March 14, 1983	.011947
March 15, 1983	.011940
March 16, 1983	.011905
March 17, 1983	.011891
March 18, 1983	.011876
Indonesia rupiah:	
March 14-18, 1983	.001422
Israel shekel:	
March 14, 1983	.026015

March 15-17, 1983	.025867
March 18, 1983	.025628
Peru sol:	
March 14-17, 1983	.000863
March 18, 1983	.000864
South Korea won:	
March 14-16, 1983	.001322
March 17, 1983	.001321
March 18, 1983	.001318

(LIQ-03-01 S:C:I)

Dated: March 18, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-94)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
March 21-25, 1983	$0.000016
Chile peso:	
March 21-24, 1983	.013362
March 25, 1983	.013387
Colombia peso:	
March 21-24, 1983	.013596
March 25, 1983	.013615
Greece drachma:	
March 21, 1983	.011891
March 22, 1983	.011905
March 23, 1983	.011834
March 24, 1983	.011955
March 25, 1983	.011947
Indonesia rupiah:	
March 21-24, 1983	.001422
March 25, 1983	.001421

Israel shekel:	
March 21, 1983	.025432
March 22-24, 1983	.025381
March 25, 1983	.025202
Peru sol:	
March 21-24, 1983	.000854
March 25, 1983	.000838
South Korea won:	
March 21-22, 1983	.001318
March 23-25, 1983	.001313

(LIQ -03-01 S:C:I)

Dated: March 25, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-95)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
March 28-31, 1983	$0.000016
Chile peso:	
March 28-31, 1983	.013387
Colombia peso:	
March 28-31, 1983	.013596
Greece drachma:	
March 28, 1983	.011879
March 29-30, 1983	.011891
March 31, 1983	.011898
Indonesia rupiah:	
March 28-30, 1983	.001421
March 31, 1983	.001029
Israel shekel:	
March 28-30, 1983	.025151
March 31, 1983	.025145

Peru sol:	
March 28–31, 1983	.000838
South Korea won:	
March 28, 1983	.001313
March 29–31, 1983	.001310

(LIQ-03-01 S:C:I)

Dated: March 31, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-96)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-19 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Brazil cruzeiro:	
March 1, 1983	$0.002622
March 2–4, 1983	.002573
Sri Lanka rupee:	
March 1–3, 1983	.043554
March 4, 1983	.043478
United Kingdom pound:	
March 1, 1983	1.5045
March 2, 1983	1.5050
March 3, 1983	1.5125
March 4, 1983	1.5110
Venezuela bolivar:	
March 1–3, 1983	.142857
March 4, 1983	.129032

(LIQ-03-01 S:C:I)

Dated: March 4, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-97)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-19 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Australia dollar:	
March 8, 1983	$0.85350
March 9, 1983	.85280
March 10, 1983	.85830
March 11, 1983	.85800
Brazil cruzeiro:	
March 7-8, 1983	.002573
March 9-11, 1983	.002525
Mexico peso:	
March 7, 1983	.005952
New Zealand dollar:	
March 8-9, 1983	.65350
March 10-11, 1983	.65300
Philippines peso:	
March 11, 1983	.014384
Spain peseta:	
March 11, 1983	.007561
Sri Lanka rupee:	
March 7-10, 1983	.043478
March 11, 1983	.043497
United Kingdom pound:	
March 7, 1983	1.5168
March 8, 1983	1.4995
March 9, 1983	1.5025
March 10, 1983	1.5117
March 11, 1983	1.5027
Venezuela bolivar:	
March 7-10, 1983	.129032
March 11, 1983	.124224

(LIQ-03-01 S:C:I)

Dated: March 11, 1983.

Angela DeGaetano,
Chief,
Customs Information Exchange.

(T.D. 83-98)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-19 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Australia dollar:	
March 14, 1983	$0.87530
March 15, 1983	.87460
March 16, 1983	.87400
March 17, 1983	.87300
March 18, 1983	.86800
Brazil cruzeiro:	
March 14-15, 1983	.002525
March 16-18, 1983	.002467
Italy lire:	
March 18, 1983	.000692
New Zealand dollar:	
March 14, 1983	.66750
March 15, 1983	.65900
March 16, 1983	.6565
March 17, 1983	.65550
March 18, 1983	.65350
Philippines peso:	
March 14-17, 1983	.104384
March 18, 1983	.104134
Spain peseta:	
March 18, 1983	.007524
Sri Lanka rupee:	
March 14-17, 1983	.043497
March 18, 1983	.043516
United Kingdom pound:	
March 14, 1983	1.5090
March 15, 1983	1.5140
March 16, 1983	1.5100

March 17, 1983	1.5023
March 18, 1983	1.4875
Venezuela bolivar:	
March 14-15, 1983	.110497
March 16-17, 1983	.117647
March 18, 1983	.125000

(LIQ-03-01 S:C:I)

Dated: March 18, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-99)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to Section 522(C), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-19 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Australia dollar:	
March 21, 1983	$0.86700
March 22, 1983	.86710
March 23, 1983	.86700
March 24, 1983	.86900
March 25, 1983	.86740
Brazil cruzeiro:	
March 21-24, 1983	.002467
March 25, 1983	.002395
France Franc:	
March 21, 1983	.138007
March 22, 1983	.137931
March 23, 1983	.137599
March 24, 1983	.137760
March 25, 1983	.138007
Ireland pound:	
March 21, 1983	1.3050
March 22, 1983	1.3110
March 23, 1983	1.3035
March 24, 1983	1.3055

March 25, 1983	1.3070
Italy lira:	
March 21, 1983	.000690
New Zealand dollar:	
March 21-22, 1983	.65100
March 23, 1983	.65000
March 24, 1983	.65100
March 25, 1983	.65150
Philippines peso:	
March 21-24, 1983	.104134
March 25, 1983	.103338
Portugal escudo:	
March 21, 1983	.010000
March 22, 1983	.010204
March 23, 1983	.010152
March 24, 1983	.010188
March 25, 1983	.010204
Spain peseta:	
March 21, 1983	.007331
March 22, 1983	.007402
March 23, 1983	.007339
March 24, 1983	.007360
March 25, 1983	.007337
Sri Lanka rupee:	
March 21-24, 1983	.043516
March 25, 1983	.043535
United Kingdom pound:	
March 21, 1983	1.4705
March 22, 1983	1.4720
March 23, 1983	1.4580
March 24, 1983	1.4618
March 25, 1983	1.4600
Venezuela bolivar:	
March 21-24, 1983	.125000
March 25, 1983	.124224

(LIQ-03-01 S:C:I)

Dated: March 25, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-100)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to Section 522(C), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-19 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Australia dollar:	
March 28, 1983	$0.86530
March 29, 1983	.86520
March 30, 1983	.86580
March 31, 1983	.86420
Brazil Cruzeiro:	
March 28-31, 1983	.002395
France franc:	
March 28, 1983	.137043
March 29, 1983	.137250
March 30, 1983	.137410
March 31, 1983	.137344
Ireland pound:	
March 28, 1983	1.2965
March 29, 1983	1.3010
March 30, 1983	1.3008
March 31, 1983	1.2965
Italy lire:	
March 28-29, 1983	.000690
March 30, 1983	.000691
March 31, 1983	.000692
New Zeland dollar:	
March 28, 1983	.64900
March 29, 1983	.64600
March 30, 1983	.65050
March 31, 1983	.65250
Philippines peso:	
March 28-31, 1983	.103338
Portugal escudo:	
March 28, 1983	.010204
March 29, 1983	.010152
March 30, 1983	.010178
March 31, 1983	.010142
Spain peseta:	
March 28, 1983	.007291
March 29, 1983	.007297

March 30, 1983	.007323
March 31, 1983	.007305
Sri Lanka rupee:	
March 28-31, 1983	.043535
United Kingdom pound:	
March 28, 1983	1.4545
March 29, 1983	1.4543
March 30, 1983	1.4665
March 31, 1983	1.4825
Venezuela bolivar:	
March 28, 1983	.124224
March 29, 1983	.129032
March 30-31, 1983	.124224

(LIQ-03-01 S:C:I)

Dated: March 31, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-101)

Bonds

Approval and discontinuance of Carrier's Bonds, Customs Form 3587

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as show below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: April 22, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Airport Distributors, Inc., 29285 Airport Dr., Romulus, MI; motor carrier; Sentry Ins. a Mutual Co.	Jan. 14, 1983	Mar. 31, 1983	Detroit, MI $50,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Alltrans Alaska Freight Inc., 655 S. Edmunds St., Seattle, WA; motor carrier; Hartford Accident & Indemnity Co.	Apr. 13, 1983	Apr. 15, 1983	Seattle, WA $50,000
Apex R.E. & T. Inc. and Apex Towing Co., 212 S. Central Ave., St. Louis, MO; water carrier; The Travelers Indemnity Co. (PB 6/24/82) D 6/24/83	June 24, 1983	June 24, 1983	St. Louis, MO $100,000
Earl Bolton, dba: Bolton Truck Lines, 81 "M" St., Fresno, CA; motor carrier; Fireman's Fund Ins. Co.	Jan. 24, 1983	Mar. 22, 1983	San Fran., CA $25,000
Carthage Freight Line, Inc., P.O. Box 101028, 1185 Omohundro Dr., Nashville, TN; motor carrier; The American Ins. Co. (PB 3/16/82) D 3/25/83 [1]	Mar. 16, 1983	Mar. 25, 1983	New Orleans, LA $25,000
Clarkson Brothers Machinery Haulers, Inc., P.O. Box 788, Cowpens, SC; motor carrier; Ins. Co. of North America	Jan. 25, 1983	Jan. 26, 1983	Charleston, SC $25,000
Command Transportation, Inc., 28 Fitchburg St., Somerville, MA; motor carrier; Liberty Mutual Ins. Co.	July 8, 1982	Apr. 5, 1983	Boston, MA $50,000
Cunningham Distributing Corp., 1100 2nd Ave., NW., Great Falls, MT; motor carrier; Allied Fidelity Ins. Co.	Dec. 9, 1982	Mar. 30, 1983	Great Falls, MT $25,000
Delta Lines, Inc., 333 Hegenberger Rd., Oakland, CA; motor carrier; Protective Ins. Co. (PB 3/11/68) D 4/5/83 [2]	Mar. 11, 1983	Apr. 5, 1983	San Fran., CA $25,000
Dominguez Brothers Trucking Co., 1500 S. Zarzamora St., San Antonio, TX; motor carrier; National Surety Corp. (PB 1/15/82) D 4/6/83	Jan. 15, 1983	Apr. 6, 1983	Laredo, TX $25,000
Emde Trucking Ltd., 3835 E. 2nd Ave., Burnaby, B.C., Canada; motor carrier; Royal Ins. Co. of America	Sept. 23, 1982	Mar. 29, 1983	Seattle, WA $25,000
Gateway Transfer Co.—See Quesada Auto Transport Crop.			
Ronaldo E. Guerra, Inc., P.O. Box 656, Roma, TX; motor carrier; St. Paul Fire & Marine Ins. Co.	Apr. 4, 1983	Apr. 6, 1983	Laredo, TX $25,000
H & S Freight Agents, Inc., P.O. Box 9997, Yakima, WA; motor carrier; State Farm Fire & Casualty Co.	Mar. 3, 1983	Apr. 4, 1983	Seattle, WA $25,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Harkema Express Lines Ltd., managed by: Roadway Express Ltd., 2600 York Centre—145 King St., W., Toronto, Ontario, Canada; motor carrier; Protective Ins. Co.	Feb. 10, 1983	Apr. 1, 1983	**Buffalo, NY** $25,000
IMFS, Inc., P.O. Box 175, Ionio St., NW., Grand Rapids, MI; motor carrier; Travelers Indemnity Co. (PB 4/2/82) D 4/2/83 [3]	Apr. 2, 1983	Apr. 2, 1983	**Detroit, MI** $50,000
MRT International, P.O. Box 16251, Long Beach, CA; motor carrier; Washington International Ins. Co.	Mar. 3, 1983	Mar. 22, 1983	**Los Angeles, CA** $50,000
Metroflight, Inc., dba: Metro Airlines and dba: Metroflight Airlines, P.O. Box 58608, Houston, TX; air carrier; Ins. Co. of North America (PB 8/30/82) D 9/13/82	Sept. 13, 1982	Sept. 13, 1982	**Houston, TX** $25,000
Pendleton Guard & Security Service, Inc., Magnolia Life Bldg., Suite 600, Lake Charles, CA; motor carrier; The Continental Ins. Co.	Feb. 10, 1983	Mar. 21, 1983	**Port Arthur, TX** $25,000
Pioneer Transportation Systems, Inc., Maryland Highway 331, Hurlock, MD; motor carrier; Washington International Ins. Co.	Mar. 28, 1983	Mar. 29, 1983	**Balt., MD** $25,000
Quesada Auto Transport Corp., 1319 Santa Rita (P.O. Box 1271), Laredo, TX; motor carrier; St. Paul Fire & Marine Ins. Co. (PB 10/28/81) D 3/28/83 [4]	Mar. 22, 1983	Mar. 28, 1983	**Laredo, TX** $60,000
Shaker Express, P.O. Box 2430, San Diego, CA; motor carrier; Transamerica Ins. Co. (PB 5/6/76) D 4/3/83	Aug. 13, 1983	Apr. 3, 1983	**San Diego, CA** $50,000
Sims Motor Transport Lines, Inc., 610 W. 138th St., Chicago, Ill.; motor carrier; U.S. Fidelity & Guaranty Co. D 3/22/83	May 12, 1983	May 13, 1983	**Chicago, Ill.** $25,000
Strothman Tank Lines—See United States Transportation, Inc.			
Suiax, Inc., Rt. 2 Box 30D, Union Grove, WI; motor carrier; Employers Mutual Casualty Co.	Feb. 28, 1983	Mar. 16, 1983	**Milwaukee, WI** $25,000
Titan Security Ltd., 3235 Tulane Ave., New Orleans, LA; motor carrier; Northwestern National Casualty Co.	Feb. 22, 1983	Mar. 18, 1983	**New Orleans, LA** $25,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
United States Transportation, Inc., dba Strothman Tank Lines, 4963 Provident Dr., Cincinnati, OH; motor carrier; The Buckeye Union Ins. Co.	Apr. 7, 1983	Apr. 13, 1983	Cleveland, OH $100,000
Worster Motor Lines Inc., Gay Road, North East, PA; motor carrier; Protective Ins. Co.	Mar. 2, 1983	Mar. 25, 1983	Buffalo, NY $25,000

[1] Surety is Liberty Mutual Ins. Co.
[2] Surety is General Ins. Co. of America.
[3] Surety is Peerless Ins. Co.
[4] Principal is Gateway Transfer Co.

BON-3-03

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-102)

Change of Practice Relating to Tariff Classification of Certain Tubular Textile Braded Line

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Change of practice.

SUMMARY: This document gives notice of a change of an established and uniform practice of classifying certain tubular textile braided lines containing, and in chief value of, lead cores, which are currently classified under the provision for articles of lead, not coated or plated with precious metal, valued over 13⅓ cents per pound, in item 657.75, Tariff Schedules of the United States (TSUS). This change of practice will result in the classification of these articles, which are used to weigh down fish nets, under the *eo nomine* provision for tubular braids with a nonelastic core, not suitable for making or ornamenting headwear, in item 348.00, TSUS, when imported in the piece (material lengths). However, when imported in specific lengths of 300, 330, 600, 660, 900, and 990 feet, they will be classified under the provision for other articles not specifically provided for, of textile materials, in item 389.70, TSUS, if in chief value of lead.

EFFECTIVE DATE: July 28, 1983.

FOR FURTHER INFORMATION CONTACT: Phil Bobins, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8181).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On October 21, 1981, a notice was published in the Federal Register (46 FR 51698) advising that Customs was reviewing its current established and uniform practice of classifying tubular textile braided lines with a nonelastic lead core under the provision for articles of lead, not coated or plated with precious metal valued over 13⅓ cents per pound, in item 657.75, (TSUS) (19 U.S.C. 1202). Pursuant to section 315(d), Tariff Act of 1930, as amended, (19 U.S.C. 1315(d)), and section 177.10(c)(1), Customs Regulations (19 CFR 177.10(c)(1)), Customs requested comments on its proposal to reclassify these articles, which are used to weigh down fish nets, under the *eo nomine* provision for tubular braids with a nonelastic core, not suitable for making or ornamenting headwear, in item 348,00, (TSUS). Comments were to have been received on or before December 21, 1981. However, pursuant to a request to extend the time for the submission of comments, Customs published a notice in the Federal Register (46 FR 62600), extending the time period to January 21, 1982.

As indicated in the notice, item 348.00, TSUS, is an *eo nomine* provision that neither requiries the merchandise to be in chief value of any particular material, nor does it require the articles to be of textile materials. Further, even if there were a requirement that the braids had to be "of textile materials," the term "textile materials" is defined in Hednote 2(a)(v), Schedule 3, TSUS, as including "braids." The word "braids" is defined in Subpart (f) of the same headnote as including all brainds of any construction, with or without cores.

An *en nomine* provision for an article, such as the provision for tubular braids with a nonelastic core, not suitable for making or ornamenting headwear, without limitations or shown contrary legislative intent, judicial decision, or administrative practice to the contrary, and without proof of commercial designation, will include all forms of such an article. *Nootka Packing Co.*, v. *United States*, 22 C.C.P.A. 464, T.D. 47464 (1935). In view of this principle and in light of the definitions of "textile materials" and "braids" enunciated above, Customs proposed that the subject articles be reclassified under item 348.00, TSUS.

ANALYSIS OF COMMENTS

Five comments were received in response to the notice. Two commentators were in favor of the proposal and three commenters were opposed. Two of the three commenters opposed to it were concerned with the economic impact which would result from the change and the fact that the articles are not used as a textile. However, neither of these factors is relevant in determining the proper statutory tariff classification of the articles.

The primary issues raised by the remaining commenter opposed to the reclassification and Customs response to these issues is as follows:

1. The question is raised as to whether the articles, which are chiefly used for weighing down fish netting, is a "braid" since the lead core is not a central strand.

The definition from *Webster's Third New International Dictionary*, 1966, of the word "braid", describes the manufacturing process used to produce a braid. The description states that three or more strands are formed into a cord or ribbon by repeatedly crossing a left and then a right strand over a central strand and under the opposite strand. It does not appear that the strands described in that definition are meant to include a central core. The cited definition does not contain anything contradictory to the conclusion that the articles are a braid. In this connection, se *Sol Kahaner & Bro. v. United States*, 71 Cust. Ct. 97, C.D. 4480 (1973), aff'd. 62 CCPA 35, C.A.D. 1141 (1975), which held that the term "Braids" for tariff purposes includes only braids formed by special "maypole" type construction in which three or more lengths are diagonally intertwined.

2. It is contended that the provisions in the Tariff Act of 1930, as amended, from which the provision for tubular braids with a nonelastic core, item 348.00, TSUS, was derived, all provided for tubing wholly or in chief value of textile materials. Accordingly, it is argued that the article is required to be in chief value of textile materials to be classified in item 348.00, TSUS.

It is a cardinal rule of statutory construction that where doubt or ambiguity exists as to the meaning or scope of a statute, it is proper to consult the legislative history of that statute to ascertain congressional intent and that such intent governs the interpretation fo the statute. However, in this instance we believe that the wording is clear and unambiguous.

Headnote 2(a)(v), Schedule 3, TSUS, defines the term "textile materials" as including braids as defined in Headnote 2(F). That headnote defines the term "braids" when used in connection with textile materials or textile articles, as including all braids in the piece of any construction, with or without cores. There is no requirement that the braids classifiable in Schedule 3, TSUS, be in chief value of textiles. The language used in the definition of "Braids" refers to textile materials and textile articles, not to articles of textile materials. The word "of" is defined for tariff purposes in General Headnote 9(f)(i), TSUS, as meaning that the article is wholly or in chief value of the named material. The definition of "braids does require that the braided portion, as opposed to the core, consist of material which would otherwise be considered textile materials. There is no similar limitation in the definition concerning the composition of any core in a braid. Therefore, in determining whether a braid with a core is within the purview of "textile materials," the composition of the core is not a consideration.

Even if it could be argued that the definition of braids was ambiguous, the legislative history is clear. As explained in the Tariff Classification Study, Explanatory Materials, published as C.I.E. 1/64, dated January 2, 1964, under the Tariff Act of 1930, the practice of Customs was to exclude from the meaning of the term "braids" so-called cords which consisted of a braided sheath surrounding an inner core.

> This latter practice is not reflected in the proposed definition which would include all braids in the piece whether with or without cores. The propsoed definition also includes such braids whether they have been braided from fibers, filaments (including tinsel wire and lame), yarns, cordage, textile fabrics, or any combination thereof. It is believed that this definition properly reflects the trade conception of braid. Volume 1 at pg. 227.

In addition, as can be seen from Part IIB, Tariff Classification Study Submitting Report, also published in Volume 1, C.I.E. 1/64, in converting from the Tariff act of 1930, as amended, to the TSUS, the TSUS resulted in numerous rate changes. Further, the court noted in *Sol Kahaner & Bro.* v. *United States, supra,* that the statutory language in the TSUS in regard to the classification of braids differs from the language in the Tariff Act of 1930, as amended, nd the change is sufficient to establish that the coverage under the TSUS differs from that which existed previously.

3. The position is advanced that the statutory language of Headnote 2(f), Schedule 3, TSUS, applies only to textilte materials and textile articles and does not apply to textile braids which are in chief value of the lead core.

Customs does not read Headnote 2(f) in that manner. In the TSUS, the word "of" is defined in General Headnote 9(f)(i), TSUS, and is the designated word used in the TSUS as requiring that an article be in chief value of the named material. The word "of" does not appear in Headnote 2(f). Further, a submission by an American manufacturer of similar articles is persuasive that the subject articles are known in the trade and commerce of this country as a textile material or a textile article.

4. The position is advanced that these articles are not classifiable in item 348.00, TSUS, because that provision encompasses only braids imported in material lengths, and a substantial amount of the braided lead lines is actually imported cut to predetermined sizes for use on specific size nets.

Customs has confirmed this position. Braided lead lines are used in certain designated lengths ranging from 300 feet to 990 feet and when imported in those designated lengths, they are seldom cut. Customs has continuously held that merchandise which is imported cut to specific sizes for specific uses, and which will not be further cut after importation, is not considered to be in material lengths. See C.S.D. 79-115, published in the Customs Bulletin of April 25, 1979, in response to Internal Advice Request No. 43/78, which held that mountain climbing ropes in lengths of 120, 150, and 165 feet were not imported in material lengths and, therefore, were separate and distinguishable articles of commerce classifiable as sporting equipment.

Since braids with cores imported in material lengths are "textile materials," it follows that articles which are in chief value of such braids are, unless more specifically provided for elsewhere, classifiable as articles of textile materials.

CHANGE OF PRACTICE

After careful analysis of the comments received, Customs proposal to clasify braided lead lines under item 348.00, TSUS, is adopted, with the addition that if imported in specific lengths of 300, 330, 600, 660, 900, and 990 feet, they are classifiable under the provision for other articles not specially provided for, of textile materials, in item 389.70, TSUS, if in chief value of lead.

E.O. 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

REGULATORY FLEXIBILITY ACT

This document is not subject to the provisions of sections 603 and 604 Title 5, United States Code (as added by section 3 of Pub. L. 96-354, the "Regulatory Flexibility Act").

DRAFTING INFORMATION

The principal author of this document was Jesse V. Vitello, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

WILLIAM VON RAAB,
Commissioner of Customs.

Approved: April 13, 1983.
ROBERT E. POWIS,
Acting Assistant Secretary of the Treasury.

[Published in the Federal Register, April 29, 1983 (48 FR 19508)]

(T.D. 83-103)

Revocation of Landing Rights Designation of Melbourne, Fla., Regional Airport

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of revocation of landing rights designation.

SUMMARY: This notice announces that Customs is revoking the landing rights designation of Melbourne Regional Airport in Melbourne, Florida, in view of the low level of international aircraft arrivals there, the significant expense involved in processing those arrivals and the proximity of two other landing rights airports to the Melbourne area. This change will enable Customs to obtain more efficient use of its personnel, facilities, and resources.

EFFECTIVE DATE: The landing rights designation of Melbourne Regional Airport is revoked effective June 6, 1983.

FOR FURTHER INFORMATION CONTACT: C. Duane Oveson, Office of Passenger Enforcement and Facilitation, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5607).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Under section 1109(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1509(b)), the Secretary of the Treasury is authorized to designate places in the United States as ports of entry for civil aircraft arriving from any place outside of the United States and for merchandise carried on the aircraft. These airports are referred to as "international airports," and the location and name of each are listed in section 6.13, Customs Regulations (19 CFR 6.13).

In accordance with section 6.2, Customs Regulations (19 CFR 6.2), the first landing of every civil aircraft arriving in the United States must be at an "international airport" unless the aircraft has been specifically exempted from this requirement or permission to land elsewhere has been granted. Customs officers are assigned to all international airports to accept entries of merchandise, collect duties, and enforce Customs laws and regulations.

A "landing rights airport" is an airport, not designated as an international airport, at which civil aircraft arriving in the United States from any place outside of the United States may land upon being granted permission by Customs to do so. In such a case, Customs assigns its personnel to that airport for that aircraft.

The Melbourne Regional Airport (Melbourne) at Melbourne, Florida, has been a "landing rights airport" since July 1971.

Arrivals of aircraft from outside the United States at Melbourne are handled by a small staff of Customs officers from Port Canaveral, Florida, which is 30 miles from Melbourne. There are two other landing rights airports in the general area that process international arrivals: the St. Lucie County International Airport (St. Lucie) in Fort Pierce, Florida, which is approximately 50 miles south of Melbourne, and the Orlando International Airport (Orlando) in Orlando, Florida, which is approximately 50 miles northwest of Melbourne.

Since 1971, there has been a low level of international aircraft arrivals at Melbourne. The costs to Customs to process these arrivals have been significant. The excessive time spent by Customs officers in traveling to and from Melbourne for the limited number of arrivals is a nonproductive expenditure of scarce resources. In addition, Customs has recently implemented an intensified enforcement program in South and Central Florida, to combat the influx of narcotics into the United States by air. That program has necessitated a concentration of Customs resources into eight Florida airports.

Accordingly, in a notice published in the Federal Register on October 19, 1982 (47 FR 46611), Customs proposed to revoke the landing rights designation of Melbourne Regional Airport, and solicited public comment on the proposal.

Discussion of Comments

Fifty seven comments were received in response to the notice. All of the comments except for one were opposed to the revocation of the landing rights designation. The commenters in opposition state that: (1) the revocation will adversely affect the economic growth and development of the Melbourne area; (2) the level of international aircraft activity at Melbourne justifies the landing rights designation; (3) the amount which the Government will save by a revocation of landing rights is relatively insignificant; (4) the revocation will inconvenience importers, passengers, and aircraft pilots; and (5) St. Lucie, one of the facilities which will pick up many of the landings which won't occur at Melbourne, has poor facilities compared to Melbourne.

One commenter is in favor of the revocation and resultant decrease in traffic for safety reasons because Melbourne is the home of a large aviation training college and the air is constantly filled with small training planes.

For fiscal years 1978–1980, there was an average of 649 international aircraft arrivals at Melbourne, compared with an average of 5,057 at St. Lucie and 1,525 at Orlando. In fiscal year 1981, 893 international aircraft arrivals were made at Melbourne, as opposed to 5,249 at St. Lucie and 2,084 at Orlando. It is not appropriate to consider fiscal year 1982 figures since landings at Melbourne have been greatly limited by an interim amendment to section 6.14, Customs Regulations (19 CFR 6.14), effective April 1, 1982.

The estimated annual savings to the Government as a result of the revocation will be $28,000. Customs considers this to be a significant savings.

With respect to the commenters' statement about the facilities at St. Lucie, Customs notes that St. Lucie has received a $3 million dollar grant to improve its facilities. St. Lucie uses the Federal Aviation Administration tower and visual ommirange approach from Vero Beach Municipal Airport in Vero Beach, Florida, 12 miles north of St. Lucie. When the weather is such that an aircraft cannot land at St. Lucie, the pilot has a choice of landing at several other airports south of St. Lucie which have full instrument landing system capabilities.

CUSTOMS DETERMINATION

After a consideration of the proposal and the comments received thereon, Customs has made a determination to revoke the landing rights designation of Melbourne Regional Airport in Melbourne, Florida.

This determination is based upon the low level of international aircraft arrivals at Melbourne, the significant expense in processing those arrivals, and the proximity of two other landing rights airports to the Melbourne area.

AUTHORITY

This action is undertaken pursuant to the authority of R.S. 251, as amended, section 624, 46 Stat. 759, section 1109, 72 Stat. 799, as amended (19 U.S.C. 66, 1624, 49 U.S.C. 1509).

DRAFTING INFORMATION

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: March 25, 1983.

ALFRED R. DEANGELUS,
Acting Commissioner of Customs.

[Published in the Federal Register, May 5, 1983 (48 FR 20329)]

(T.D. 83-104)

Decision Denying Domestic Interested Party Petition Requesting Reclassification of Certain Prefinished Hardboard Siding: Petitioner's Desire To Contest the Decision

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of (1) decision on domestic interested party petition, and (2) receipt of notice of petitioner's desire to contest the decision.

SUMMARY: In response to a petition from a domestic interested party requesting that certain prefinished hardboard siding be reclassified for tariff purposes under the provision for other hardboard, whether or not face finished, in item 245.30, Tariff Schedules of the United States (TSUS), Customs invited public comments with regard to the correctness of the present classification. After consideration of the comments received and further review of the matter, Customs has advised the petitioner that such prefinished hardboard siding would continue to be classified under the provision for other building boards, of vegetable fibers (including wood fibers), in item 245.90, TSUS. Upon being informed that its petition had been denied, the petitioner filed a notice of its desire to contest the decision.

FOR FURTHER INFORMATION CONTACT: Janet L. Johnson, Classification and Value Division, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8181).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On July 13, 1981, a petition was filed under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), by the American Hardboard Association, a national trade association representing American manufacturers of prefinished hardboard siding, requesting that certain imported prefinished hardboard siding be reclassified under the provision for other hardboard in item 245.30, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), presently dutiable at 12 percent ad valorem. Such hardboard siding has been classified by Customs under the provision for other building boards, of vegetable fibers (including wood fibers), in item 245.90, TSUS, free of duty, following Customs ruling 061750 BF, dated November 14, 1980.

A notice of receipt of the petition was published in the Federal Register on March 22, 1982 (47 FR 12258), inviting public comment. Written comments were to have been received on or before May 21, 1982. By notice published in the Federal Register on May 27, 1982, (47 FR 23249), the period of time for the submission of comments was extended to June 21, 1982.

Nine commenters responded to the notice. Four favored the reclassification of the merchandise and five opposed any change. Those favoring reclassification generally supported the claims of the petitioner, which are set forth below.

In support of its contention that the merchandise involved is properly classifiable as other hardboard under item 245.30, TSUS, the petitioner made the following claims:

(1) Item 245.90, TSUS, is intended for insulation board products such as sheathing, ceiling tile, sound deadening board and roof

deck, all low density products (*i.e.*, weighing 30 pounds or less per cubic foot).

(2) Finished hardboard products weighing 31 pounds or more per cubic foot should be classified in item 245.30, TSUS.

(3) Several passages from the American Society of Testing and Materials (ASTM) publication, ASTM D1554 (Standard Definitions of Terms Relating to Wood-Base Fiber and Particle Panel Materials) support the foregoing claims.

By a ruling dated October 29, 1982 (070255), Customs advised the petitioner that its first contention is contradicted by the annotated tariff schedules. Item 245.30, TSUS, provides only for "hardboard, whether or not face finished, other". As such, the provision covers only plain sheets and strips of hardboard, not advanced in any way except face finishing. The merchandise in question has been processed by more than face finishing; it has been rabbetted and grooved, and a plastic spline has been attached. Such processing advances the hardboard from a material to an article specially designed to be used as lap siding in the construction of walls. As such, the merchandise becomes a building board, classifiable in item 245.90, TSUS.

The first contention is also contradicted by statistical breakouts in the tariff schedules. Effective January 1, 1964, item 245.90, TSUS, was divided into two major statistical sub-categories: "weighing 26 pounds or less per cubic foot," and "other" (*i.e.*, weighing more than 26 pounds per cubic foot). Effective January 1, 1978, the two major sub-categories were changed to "weighing 30 pounds or less per cubic foot," and "other" (*i.e.*, weighing more than 30 pounds per cubic foot). In view of the fact that the tariff schedules have contained these statistical suffix breakdowns under item 245.90, TSUS, since January 1, 1964, the petitioner's claim cannot overcome the administrative treatment of the tariff provision.

The petitioner's second claim is also contradicted by the tariff schedules. Schedule 2, Part 3, Headnote 1(e), TSUS, defines building boards as "panels of rigid construction, including tiles and insulation board, chiefly used in the construction of walls, ceilings, or other parts of buildings." The merchandise in question qualifies as "building board" according to the Headnote 1(e) definition.

Finally, concerning petitioner's third claim, when the tariff schedules provide a headnote which specifically defines a term such as "building boards," there is no need to resort to commercial definitions.

DECISION ON PETITION AND RECEIPT OF PETITIONER'S NOTICE OF DESIRE TO CONTEST

In the ruling dated October 29, 1982, the petitioner was advised that its petition was denied and that Customs would continue its practice of classifying such prefinished hardboard siding in item

245.90, TSUS. In response, by letter dated November 29, 1982, the petitioner filed notice of its desire to contest this decision in accordance with section 516(c), Tariff Act of 1930, as amended (19 U.S.C. 1516(c)), and section 175.23, Customs Regulations (19 CFR 175.23).

After careful analysis of the comments received in response to the notice and further review of the matter, Customs remains of the opinion that its practice of classifying such prefinished hardboard siding under item 245.90, TSUS, is correct. This practice will continue provided that no decision of the United States Court of International Trade or the United States Court of Appeals for the Federal Circuit not in harmony with this practice is rendered.

AUTHORITY

This notice is being published in accordance with section 516(c), Tariff Act of 1930, as amended (19 U.S.C. 1516(c)), and section 175.24, Customs Regulations (19 CFR 175.24).

DRAFTING INFORMATION

The principal author of this document was Jesse V. Vitello, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: March 22, 1983.

ALFRED R. DEANGELUS,
Acting Commissioner of Customs.

[Published in the Federal Register, May 11, 1983 (48 FR 21231)]

(T.D. 83-105)

Bonds

Approval and discontinuance of bonds on Customs Form 7587 for the control of Instruments of International Traffic of a kind specified in section 10.41a of the Customs Regulations

Bonds on Customs Form 7587 for the control of instruments of international traffic of a kind specified in section 10.41a of the Customs Regulations have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: May 6, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Allis Chalmers Corp., P.O. Box 512, Milwaukee, WI; The American Ins. Co.	Feb. 24, 1983	Mar. 20, 1983	**Milwaukee, WI** **$25,000**
Asia Merchant Marine America, Inc., 1660 Geary St., San Francisco, CA; Washington International Ins. Co.	Mar. 15, 1983	Mar. 15, 1983	**Portland, OR** **$10,000**
Geo. S. Bush & Co., Inc., 259 Colman Bldg., Seattle, WA; Old Republic Ins. Co.	Nov. 15, 1982	Nov. 17, 1982	**Seattle, WA** **$10,000**
Del Monte Corp., One Market Plaza, San Francisco, CA; Federal Ins. Co. (PB 4/1/80) D 4/1/83 [1]	Apr. 1, 1983	Apr. 1, 1983	**Buffalo, NY** **$10,000**
Wm. R. Neal, Inc., P.O. Box 528, Port Huron, MI; St. Paul Fire & Marine Ins. Co. D 3/28/83	Apr. 24, 1967	Apr. 27, 1967	**Detroit, MI** **$10,000**
Olympia Brewing Co., Custer Way & Schmidt Place, P.O. Box 957, Olympia, WA; Washington International Ins. Co.	Mar. 16, 1983	Mar. 22, 1983	**Seattle, WA** **$10,000**
Rijbatainer Inc., 124 Fairfield Rd., Fairfield, NJ; Investors Ins. Co. of America D 4/18/83	June 20, 1980	June 20, 1980	**New York Seaport** **$10,000**
David Rivera, dba: Rivera Gas, 634 Monserrate St., Santurce, PR; The Home Ins. Co.	Apr. 4, 1983	Apr. 5, 1983	**San Juan, PR** **$10,000**
Rohde & Liesenfeld, Inc., One World Trade Center, New York, NY; Investors Ins. Co. of America	Apr. 18, 1983	Apr. 19, 1983	**New York Seaport** **$10,000**
Seneca Foods Corp., P.O. Box 71, Lee Rd., Prosser, WA; Old Republic Ins. Co.	Mar. 2, 1983	Mar. 3, 1983	**Seattle, WA** **$10,000**
Ralph V. Sluys, Box 744, Eureka, MT; Old Republic Ins. Co.	Apr. 29, 1982	Apr. 30, 1982	**Great Falls, MT** **$10,000**
Transcaribbean Maritime Corp., Box 564, San Juan, PR; Puerto Rican-American Ins. Co.	Apr. 15, 1983	Apr. 18, 1983	**San Juan, PR** **$25,000**
Trinicon (USA) Inc., 924 15th St., #3, Santa Monica, CA; Old Republic Ins. Co. (PB 4/24/80) D 3/16/83	Apr. 24, 1983	Apr. 28, 1983	**New Orleans, LA** **$10,000**
Westinghouse Electric Corp., Gateway Center, Pittsburgh, PA; Federal Ins. Co. (PB 5/21/77) D 3/25/83	Mar. 25, 1983	Mar. 31, 1983	**New York Seaport** **$50,000**

[1] Surety is American Home Assurance Co.

BON-3-10

Marilyn G. Morrison,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-106)

Foreign Currencies—Daily Rates For Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
April 1, 1983	$0.000016
Chile peso:	
April 1, 1983	.013387
Colombia peso:	
April 1, 1983	.013596
Greece drachma:	
April 1, 1983	.011898
Indonesia rupiah:	
April 1, 1983	.001029
Israel shekel:	
April 1, 1983	.025145
Peru sol:	
April 1, 1983	.000838
South Korea won:	
April 1, 1983	.001310

(LIQ-03-01 S:C:I)

Dated: April 1, 1983.

Angela DeGaetano,
Chief,
Customs Information Exchange.

(T.D. 83-107)

Foreign Currencies—Daily Rates For Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
April 4-8, 1983	$0.000015
Chile peso:	
April 4-7, 1983	.012500
April 8, 1983	.013333
Colombia peso:	
April 4, 1983	.013578
April 5-7, 1983	.013470
April 8, 1983	.013421
Greece drachma:	
April 4, 1983	.011898
April 5, 1983	.011919
April 6, 1983	.011933
April 7, 1983	.011905
April 8, 1983	.011879
Indonesia rupiah:	
April 4-8, 1983	.001029
Israel shekel:	
April 4, 1983	.025145
April 5-8, 1983	.024900
Peru sol:	
April 4, 1983	.000805
April 5-7, 1983	.000796
April 8, 1983	.000789
South Korea won:	
April 4-8, 1983	.001310

(LIQ-03-01 S:C:I)

Dated: April 8, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-108)

Foreign Currencies—Daily Rates For Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
April 11-15, 1983	$0.000015
Chile peso:	
April 11-14, 1983	.013333
April 15, 1983	.013351
Colombia peso:	
April 11-14, 1983	.013421
April 15, 1983	.013360
Greece drachma:	
April 15, 1983	.011905
April 16, 1983	.011919
April 17, 1983	.011912
April 18, 1983	.011919
April 19, 1983	.011905
Indonesia rupiah:	
April 11-14, 1983	.001029
April 15, 1983	.001030
Israel shekel:	
April 11, 1983	.024667
April 12-13, 1983	.024504
April 14-15, 1983	.024450
Peru sol:	
April 11-14, 1983	.000789
April 15, 1983	.000772
South Korea won:	
April 11-14, 1983	.001307
April 15, 1983	.001306

(LIQ-03-01 S:C:I)

Dated: April 15, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-109)

Foreign Currencies—Daily Rates For Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
April 18-22, 1983	$0.000015
Chile peso:	
April 18-21, 1983	.013351
April 22, 1983	.013245
Colombia peso:	
April 18-21, 1983	.013360
April 22, 1983	.013245
Greece drachma:	
April 18, 1983	.011898
April 19, 1983	.011905
April 20, 1983	.011898
April 21, 1983	.011884
April 22, 1983	.011919
Indonesia rupiah:	
April 18-21, 1983	.001030
April 22, 1983	.001031
Israel shekel:	
April 18, 1983	.024361
April 19-20, 1983	.024254
April 21, 1983	.024114
April 22, 1983	.024079
Peru sol:	
April 18-21, 1983	.000773
April 22, 1983	.000756
South Korea won:	
April 18, 1983	.001306
April 19-22, 1983	.001305

(LIQ-03-01 S:C:I)

Dated: April 22, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-110)

Foreign Currencies—Daily Rates For Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
April 25-29, 1983	$0.000015
Chile peso:	
April 25-28, 1983	.013245
April 29, 1983	.013333
Colombia peso:	
April 25-29, 1983	.013245
Greece drachma:	
April 25, 1983	.011876
April 26, 1983	.011869
April 27-28, 1983	.011876
April 29, 1983	.011898
Indonesia rupiah:	
April 25-29, 1983	.001031
Israel shekel:	
April 25, 1983	.024050
April 26, 1983	.023964
April 27, 1983	.023883
April 28, 1983	.023798
April 29, 1983	.023742
Peru sol:	
April 25-28, 1983	.000756
April 29, 1983	.000742
South Korea won:	
April 25-27, 1983	.001305
April 28-29, 1983	.001304

(LIQ-03-01 S:C:I)

Dated: April 29, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-111)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-90 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Venezuela bolivar:	
April 8, 1983	$0.116959

(LIQ-03-01 S:C:I)

Dated: April 8, 1983.

Angela DeGaetano,
Chief,
Customs Information Exchange.

(T.D. 83-112)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-90 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Venezuela bolivar:	
April 11-12, 1983	$0.116959
April 13-15, 1983	.106383

(LIQ-03-01 S:C:I)

Dated: April 15, 1983.

Angela DeGaetano,
Chief,
Customs Information Exchange.

(T.D. 83-113)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-90 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Brazil cruzeiro:	
April 20-22, 1983	$0.002259
United Kingdom pound:	
April 18, 1983	1.5610
Venezuela bolivar:	
April 18-21, 1983	.106383
April 22, 1983	.105263

(LIQ-03-01 S:C:I)

Dated: April 22, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-114)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-90 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Brazil cruzeiro:	
April 25–27, 1983	$0.002259
April 28–29, 1983	.002198
United Kingdom pound:	
April 25, 1983	1.5680
April 26, 1983	1.5700
April 27, 1983	1.5680
April 28, 1983	1.5592
April 29, 1983	1.5573
Venezuela bolivar:	
April 25–28, 1983	.105263
April 29, 1983	.099010

(LIQ-03-01 S:C:I)

Dated: April 29, 1983.

Angela DeGaetano,
Chief,
Customs Information Exchange.

(T.D. 83-115)

Bonds

Approval and discontinuance of Carrier's Bonds, Customs Form 3587

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: May 13, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
A. C. Express, Inc., 9350 Harrison Rd., Romulus, MI; motor carrier; Transamerica Ins. Co. of MI	Apr. 7, 1983	Apr. 14, 1983	Detroit, MI $50,000
Affiliated Transport Service Inc., 530 Duncan Ave., Jersey City, NJ; motor carrier; The North River Ins. Co. (PB 2/9/78) D 4/6/83)	Feb. 3, 1983	Apr. 6, 1983	Newark, NJ $50,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Baltimore Warehousing & Transportation, Inc., 2701 Boston St., Baltimore, MD; motor carrier; Ins. Co. of North America	Feb. 8, 1983	Apr. 22, 1983	Baltimore, MD $25,000
Beaver Transport Co., div. of Quality Carriers, Inc., 100 Waukegan Rd., Lake Bluff, IL, motor carrier; Washington International Ins. Co.	Apr. 21, 1983	Apr. 22, 1983	Chicago, IL $25,000
Calway Systems Inc., 8 Cedar Ave., Thornhill, Ontario, Canada; motor carrier; Aetna Casualty & Surety Co.	Feb. 9, 1983	Apr. 22, 1983	Buffalo, NY $40,000
Carolina & Northwestern Railway Co., P.O. Box 1808, Washington, D.C., rail carrier; Fidelity & Deposit Co. of MD (PB 1/29/62) D 4/19/83 [2]	June 1, 1982	Apr. 19, 1983	Norfolk, VA $50,000
Francisco A. Delgado, Inc., Box 7466, Ponce, PR; motor carrier; Ins. Co. of North America (PB 8/4/81) D 4/29/83 [3]	Aug. 23, 1982	Apr. 29, 1983	San Juan, PR $25,000
Delivery Exchange Service, Inc., 3141 N. Highway 67, Suite C, Mesquite, TX; motor carrier; Old Republic Ins. Co.	Apr. 14, 1983	Apr. 22, 1983	Dallas/Fort Worth, TX $25,000
First Flight Air Charter, Inc., P.O. Box 371, Romulus, MI; motor carrier; The Aetna Casualty & Surety Co. D 4/14/83	July 1, 1980	July 7, 1980	Detroit, MI $50,000
General Trucking Co., Inc., P.O. Box 269, 1107 Santa Fe Pike, Columbia, TN; motor carrier; U.S. Fidelity & Guaranty Co.	Apr. 18, 1983	Apr. 18, 1983	New Orleans, LA $25,000
Gulf Transport Ltd., 16 Exhibition Dr., P.O. Box 1507, Charlottetown, P.E.I., Canada; motor carrier; Old Republic Ins. Co. (PB 5/15/77) D 5/14/83 [4]	Apr. 27, 1983	May 15, 1983	Portland, ME $25,000
Howard G. Haughaboo, d.b.a.: John C. Haughaboo Trucking Co., 81 Deerfield Village, Maysville, KY; motor carrier; Hartford Accident & Indemnity Co. D 4/22/83	Apr. 19, 1982	May 4, 1982	Cleveland, OH $50,000
International Expediting, Inc., 3400 McIntosh Rd., Fort Lauderdale, FL; motor carrier; Old Republic Ins. Co. D 3/31/83	Oct. 15, 1982	Oct. 15, 1982	Miami, FL $25,000
Kat-B Transcon, Inc., 6938 Clinton Dr., Houston, TX; motor carrier; Washington International Ins. Co.	Apr. 21, 1983	Apr. 21, 1983	Houston, TX $25,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
L.R. Trucking, Inc., 968 Massachusetts Ave., Boston, MA; motor carrier; Peerless Ins. Co. (PB 3/13/81) D 4/21/83	Apr. 11, 1983	Apr. 21, 1983	Boston, MA $25,000
Matco, P.O. Box 2377, Abilene, TX; motor carrier; The Travelers Indemnity Co.	Apr. 7, 1983	Apr. 28, 1983	Houston, TX $50,000
North Central Jobbers, Inc., P.O. Box 279, Northwood, ND; motor carrier; Old Republic Ins. Co. D 4/6/83	Apr. 6, 1982	Apr. 6, 1982	Duluth, MN $25,000
North & South Lines, Inc., 2710 S. Main St., Harrisonburg, VA; motor carrier; The Travelers Indemnity Co.	Feb. 22, 1983	May 6, 1983	Baltimore, MD $50,000
O and A Transportation Inc., 3801 Trailmobile (P.O. Box 24176), Houston, TX; motor carrier; Washington International Ins. Co.	Apr. 20, 1983	Apr. 22, 1983	Houston, TX $50,000
PDPD Corp., trading as P & K Express, 98 Frelinghuysen Ave., Newark, NJ; motor carrier; Peerless Ins. Co.	May 3, 1983	May 5, 1983	Newark, NJ $50,000
Quality Carriers, Inc.—See Beaver Transport Co.			
Reliance Express, Inc., P.O. Box 70984, Charleston, SC; motor carrier; Reliance Ins. Co.	Jan. 3, 1983	May 2, 1983	Charleston, SC $25,000
Road-Rail Transportation Co., Inc. (a DE Corp.), 1111 Exterior St., Bronx, NY; motor carrier; The Aetna Casualty & Surety Co.	Mar. 28, 1983	Apr. 8, 1983	New York Seaport $150,000
SEA-MAR Services, Inc., 2111 N. Pace Blvd., P.O. Box 17829, Pensacola, FL; motor carrier; United States Fidelity & Guaranty Co. D 4/12/83	Feb. 28, 1981	Mar. 6, 1981	Mobile, AL $25,000
Schuster's Express, Inc., 48 Norwich Ave., Colchester, CT; motor carrier; Peerless Ins. Co. D 4/30/83	Apr. 30, 1976	May 28, 1976	Bridgeport, CT $25,000
Tax Airfreight, Inc., 4430 S. Kansas Ave., St. Francis, WI; motor carrier; Employers Ins. of Wausau	Apr. 1, 1983	May 16, 1983	Milwaukee, WI $25,000
Tennessee Cartage Co., P.O. Box 23193, Nashville, TN; motor carrier; The American Ins. Co.	May 5, 1983	May 6, 1983	New Orleans, LA $25,000
Thor Imports, Inc., 1000 Dragon St., Dallas, TX; motor carrier; St. Paul Fire & Marine Ins. Co. D 3/14/83	Apr. 24, 1969	May 2, 1969	Houston, TX $25,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Tonka Corp., 4144 Shoreline Blvd., Spring Park, MN; motor carrier; Great American Ins. Co.	Mar. 28, 1983	Apr. 18, 1983	El Paso, TX $50,000
Truck Air, Inc., 576 Lake Mirror Rd., College Park, GA; motor carrier; Ins. Co. of North America D 5/13/83	July 7, 1982	Aug. 5, 1982	Savannah, GA $25,000
U.S. Contract Trucking, Inc., 2730 Carl Rd., P.O. Box 2120, Irving, TX; motor carrier; The Travelers Indemnity Co.	Apr. 7, 1983	Apr. 14, 1983	Dallas/Fort Worth, TX $50,000

[1] Surety is Peerless Ins. Co.
[2] Principal is Norfolk Southern Railway Co.
[3] Surety is New Hampshire Ins. Co.
[4] Surety is Peerless Ins. Co.

BON-3-03

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

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19 CFR Part 177

(T.D. 83-116)

Tariff Classification of Footwear

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final Position and Guidelines.

SUMMARY: This document sets forth: (1) Customs position regarding the proper interpretation of provisions in the Tariff Schedules of the United States pertaining to imported footwear having foxing or a foxing-like band applied or molded at the sole and overlapping the upper, and (2) guidelines relating to the characteristics of foxing and a foxing-like band.

EFFECTIVE DATE: June 22, 1983.

FOR FURTHER INFORMATION CONTACT: Donald F. Cahill, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-8181).

SUPPLEMENTARY INFORMATION:

BACKGROUND

By notice published in the Federal Register on January 25, 1982 (47 FR 3375), Customs solicited public comments regarding: (a) the interpretation of the exclusionary parenthetical clause in the superior heading to item 700.56, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), pertaining to imported footwear having "foxing or a foxing-like band" applied or molded at the sole and overlapping the upper; and (b) whether Customs should change its uniform and established practice of classifying shells for "moon boots", a type of footwear, imported with an equal number of removable liners as separate tariff entities, dutiable individually, or whether the shells and liners should be classified as tariff entities pursuant to the doctrine of entireties. Interested parties were given until March 26, 1982, to submit comments on the proposal. Pursuant to a request to extend the period of time for the submission of comments, Customs published a notice in the Federal Register on March 22, 1982 (47 FR 12194), extending the period of time to April 26, 1982.

Because of the numerous substantive and conflicting comments received in response to the more significant issue of question (a) relating to foxing, question (b) relating to the issue of entireties was treated separately. Question (b) was the subject of a document prepared for publication in the Federal Register, in which Customs held that moon boots with separable liners are entireties for tariff purposes.

The issue raised in question (a) of what constitutes "foxing or a foxing-like band," which is the subject of this document, has become more critical with the advent of the new TSUS classifications that replaced item 700.60, TSUS. Shoes which were dutiable at 20 percent ad valorem now demand a rate from 37.5 percent to 67.4 percent (equivalent rate) depending on whether Customs finds them to (1) have "foxing or a foxing-like band" or (2) in the case of slip-on type shoes, have "a foxing or a foxing-like band wholly or almost wholly of rubber or plastics."

In view of the many divergent opinions held by the importing community, the domestic shoe industry, and Customs officers regarding the meaning of the terms "foxing" and "foxing-like band", Customs decided to solicit comments on the understanding of these terms within the footwear industry and the effect of such understanding on the tariff classification of footwear. Twenty-five comments were received in response to the notice of January 25, 1982. There follows a summary of these comments and Customs analysis and position, including Customs guidelines on the characteristics of foxing and a foxing-like band.

POSITION OF DOMESTIC SHOE INDUSTRY

The basic thrust of the arguments set forth on behalf of the domestic shoe industry is that the "foxing" language of the tariff schedules should be broadly construed.

(1) POSITION OF DOMESTIC SHOE INDUSTRY: "FOXING" CONCEPTS

It is asserted that the language of the TSUS "foxing" provisions is broad enough to cover two basic concepts of foxing, namely, "heel cap" foxing and "sole/upper reinforcement" foxing.

The basic purpose of both types of foxing is to reinforce the shoe at a point of particular wear of stress (*i.e.*, the back of the heel or the sole/upper juncture) and thus assure the shoe's structural integrity. The "heel cap" type of foxing has its classic application in traditional leather shoemaking while the "sole/upper reinforcement" type developed with the advent of the use of non-leather materials in footwear manufacture.

(2) POSITION OF DOMESTIC SHOE INDUSTRY: FOXING-LIKE BAND

There is no standard trade definition for the term "foxing-like band." However, it is necessarily broader in scope than "foxing." Webster's New International Dictionary 2d. ed. (1943), p. 1431, defines "like" as an adjective:

> Having the same, or nearly the same, appearance, qualities or characteristics, similar;

Webster's New Twentieth Century Dictionary 2d. ed. (1961), p. 1048, defines "like" as:

> Similar, having the same or nearly the same qualities, characteristics, etc.

Therefore, a "foxing-like band" has the same, or nearly the same appearance, qualities or characteristics of "foxing." It follows that something which is molded to look like "foxing" is "a foxing-like band" even if it performs no function whatsoever. Undoubtedly, Congress understood this, and used "foxing-like band" to broaden the historical protection afforded the domestic shoe industry through the foxing parenthetical exception. A non-functional design or structural feature which simulates the appearance of "foxing" is "a foxing-like band."

(3) POSITION OF DOMESTIC SHOE INDUSTRY: UNIT MOLDED CONSTRUCTION

The use of unit molded bottoming materials (*i.e.*, plastic or rubber bottoms in which the heel and sole are molded as a single unit) has grown in importance in recent years in connection with the production of both leather and non-leather footwear, especially so-called "casuals."

Unit molding encompasses two distinct manufacturing processes. In pre-molded construction, a pre-formed molded unit sole is separately attached to the upper after lasting. In direct molding, the molded sole is, at the time of its formation, molded directly to the assembled and lasted upper in a single step. When the soling compound is introduced into the mold in liquid form, the process is often called "direct injection molding." In both, there is by design a "foxing or a foxing-like band . . . molded at the sole and overlapping the upper."

In order to make the shoe conform to the shape of the wearer's foot as well as to disperse the tension exerted on the sides of the upper by the sole during wearing, lasts [*i.e.*, the foot-shaped forms around which shoes are constructed] are uniformly engineered with varying degrees of convex curvature along the bottom (sole side) of the last. Unit molded soles are unique in that they are always specifically engineered to contain a "cupping radius," that is, a concave curvature along the top surface of the mold corresponding to the numerous points of radius of the bottom of a specific last. Because a cupping radius is present, the unit sole appears roughly U-shaped in cross section. The "U-shape" permits the sole to ensconce the lasted upper, thus assuring total superposition and complementary adhesion of sole and upper. It should therefore be obvious that the cupping radius in unit molded footwear is indicative of "foxing or a foxing-like band." Clearly, the cupping radius is integral to the formation of foxing. Without the cupping radius, the shoe would be structurally unstable at the juncture of sole and upper.

The Customs Service has held that particular unit molded shoes had "foxing or a foxing-like band . . . molded at the sole and overlapping the upper" for the reason that the shoes involved have a unit sole with a lip or flange which extended well above the feather line.

According to the domestic shoe industry, this line of reasoning, to wit, presenting the issue of "overlap" as a question of degree and of external appearance, is erroneous for several reasons. First, the TSUS language does not specify that a certain amount of overlap must be present, nor does it require "foxing or a foxing-like band" to resemble foxing on the outside of a sneaker. The TSUS requires only that foxing or a foxing-like band be present, and that there be "overlap of the upper."

Second, the presence of a lip or flange is sufficient, but not a necessary condition of having a foxing. If there is a lip or flange, there will be foxing, but a lip or flange need not be present for there to be a foxing. A lip or flange is an extension of the foxing in a unit molded sole. The foxing itself is present in the sole because the unit molded bottom is U-shaped in cross section.

A foxing or foxing-like band in a unit molded sole may "overlap the upper" in either or both of two ways. First, the foxing could, by virtue of an extended lip or flange, extend above the feather line.

There can be no doubt that, in such a case, the foxing of the unit sole would "overlap the upper." But in addition to this type of overlap, a unit sole will always "overlap the upper" by virtue of its cupping radius, even if no lip or flange is present. In the shoe industry, "upper" is more than the shoe material above the feather line which is exposed to view in the finished product. Upper also includes a "lasting allowance" of material which is turned under at the feather line and secured to the bottom of the insole and the top of the molded unit sole. Because a unit sole is, by virtue of its cupping radius, U-shaped in cross section, there will always be an overlap of the upper below the feather line.

Customs has always taken the position that a foxing-like band "overlaps the upper" only when it overlaps the exterior surface area of the upper (*i.e.*, extends above the feather line). There is no basis in reason or law for restricting the foxing exclusion in this manner. While the feather line test is implicit in the expressed statutory requirement that Customs classify footwear on the basis of the proportional composition of the "exterior surface area" of the upper, the foxing exclusion contains no such language. Thus, Congress must have recognized that a foxing need not extend over the feather line to accomplish its function of reinforcing and supplementing the attachment of sole and upper. While indeed the vast majority of unit molded footwear does have a lip or flange extending above the feather line, all unit molded footwear has a cupping radius or "U-shape" which creates, in the plain sense of the term, an "overlapping of the upper."

(4) POSITION OF DOMESTIC SHOE INDUSTRY: SLIP-LASTED (CALIFORNIA) CONSTRUCTION

The slip-lasted (California) construction is utilized mainly for casual shoes and sandals; a classic example is a fabric, leather or plastic casual shoe, either closed upper or open toe/open back, with an insole or unit blended insole, an outsole, wedge or heel.

The slip-lasted method is similar to autoclave construction in that it incorporates a foxing or functional foxing-like band as an intrinsic design feature. As with autoclaved footwear, the purpose of this foxing or foxing-like band is to provide structural integrity to the shoe by reinforcing the attachment of the sole and upper.

It is argued that the incorporated foxing strip constitutes a "foxing or a foxing-like band applied . . . at the sole and overlapping the upper." The material resembles a traditional sneaker foxing and serves the function of a foxing, namely, the securing and reinforcement of the attachment of the sole to the upper. Thus, the foxing furnishes the major connection between upper and sole. Moreover, it is clear that a slip-lasted foxing or foxing-like band is a distinct component "applied at the sole and overlapping the upper." Although the production process requires that the foxing strip first be stitched to the upper material and then cemented or otherwise attached to the bottom of the unit blended insole assembly, it is certainly "applied . . . at the sole" inasmuch as it is secured between insole and outsole, as in the traditional autoclaved sneaker. Furthermore, because the foxing strip is stitched at a point above the insole and then turned down, there will necessarily be an "overlapping of the upper."

(5) Position of Domestic Shoe Industry: Legislative Intent

An analysis of the legislative history of the 1963 TSUS foxing provision demonstrates that:

(1) Congress intended the provision to have an application coextensive with its broad commercial meaning;

(2) Congress must be presumed to have known that in 1963, the term "foxing" was not confined in meaning to the vulcanized band characteristic of sneakers;

(3) The 1960 Tariff Commission Study's specific mention of a sneaker-like vinyl shoe in describing the intent of the foxing exclusion does not imply that the exclusion of such shoes exhausted the intent of the exception; and

(4) To the contrary, the broad language chosen and Congress' manifest desire to maximize the protection afforded the domestic rubber footwear industry by making all shoes competitive with U.S. made footwear subject to the American Selling Price (ASP), convincingly shows that Congress intended the TSUS language to apply to all footwear containing any type of foxing or foxing-like bands.

(6) Position of Domestic Shoe Industry: Trade Agreements Act of 1979

An expansive meaning of the foxing provision is also supported by Congress' use of language in recent statutory amendments which is similar to the foxing language found in item 700.55, TSUS.

Specifically, item 700.60, TSUS, was replaced with items 700.57 through 700.71, TSUS. These new item numbers became effective on July 1, 1981. One of the new TSUS items (700.59) and the superior heading to three others (700.61-700.63) contain foxing language similar to that in the superior heading to items 700.54 and 700.56, TSUS. In the case of the headings to items 700.61-700.63, TSUS, the language is nearly identical. However, item 700.59 contains a similar foxing exclusion with a significant modification which specifies that the foxing or foxing-like band be wholly or almost wholly of rubber.

The March 1981 Summary of Trade and Tariff Information on Rubber Footwear (USITC Publication 841) explains that items 700.61-700.63, TSUS, were "primarily intended to cover joggers." A true "jogger" (a shoe designed for running) has a sole containing a wedge heel which is attached to the upper with cement only and overlaps the upper only at the heel and toe (unlike a traditional sneaker). These shoes are not unit molded and the soles are not molded to a specific last.

The popularity of the true "joggers" has spawned an injection molded variety. Injection molding requires the use of a specific last with numerous points of radius and necessarily incorporates a cupping radius and a foxing or foxing-like band within the mold. The manifest purpose of the exclusionary language of the headings to items 700.61-700.63, TSUS, is to assure that these cheaper molded shoes are dutied at the generally higher rates applicable to items 700.64-700.71, TSUS, the general "other" category, which includes sneakers and tennis shoes and all others having "foxing or a foxing-like band."

The International Trade Commission report (USITC Publication 841) also explained that one of the various shoe types covered by item 700.59, TSUS, is the so-called "espadrille." Imported varieties of these slip-on casuals are made using a variety of construction techniques, including the slip-lasted (California) construction method and are distinguished by the fabric (usually jute) band securing the attachment of the sole to the upper. It is important to note that the language of item 700.59, TSUS, impliedly recognizes that regardless of how the espadrille is constructed this jute band is, in fact, a foxing or foxing-like band, for it specifically excludes from coverage under item 700.59, TSUS, only those shoes having a "foxing or foxing-like band wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper;" by negative implication, a shoe with foxing of fabric (*e.g.* jute) remains classifiable under item 700.59, TSUS.

Clearly, a slip-lasted shoe containing a plastic rather than jute foxing strip contains a type of foxing which disqualifies it from classification under item 700.59, TSUS. Because a shoe containing foxing of any composition may not be classified under items 700.61-700.63, TSUS, the only alternative is to classify such a shoe under items 700.64-700.71, TSUS, the general "other" category which includes sneakers. Similarly, if the upper of the slip-lasted shoe is over 90 percent by surface area of rubber or plastics, it may not be classified under items 700.56, TSUS, because of the general foxing exclusion contained in the superior heading to that item. The only alternative is to classify such a shoe under items 700.64-700.71, TSUS.

In the Trade Agreements Act of 1979 (Pub. L. 96-39, section 223(b), 93 Stat. 144, 204), Congress used foxing language substantially similar to that employed in 1963, but in particular contexts which convincingly negate the suggestion that the phrase "foxing of foxing-like band" was or is confined to the type of vulcanized rubber sole/upper reinforcement characteristic of sneakers. Rather, these recent TSUS amendments conclusively demonstrate that the foxing language has consistently been intended to have broad application to all types of foxing or foxing-like bands.

(7) POSITION OF DOMESTIC SHOE INDUSTRY: MOON BOOTS

One of the commenters representing the domestic shoe industry noted that a moon boot involved in the foxing issue is a unit sole construction having a pre-molded unit sole stitched to a non-molded upper. The sidewalls of the unit sole extend upward from the sole bottom for several inches before being stitched, at the top of the sidewall, to a non-molded upper. Customs, in Ruling Nos.

051928 and 062391, dated December 1, 1977, and September 14, 1979, respectively, found that the sidewalls of the moon boot did not overlap the upper and consequently classified it under item 700.56, TSUS.

However, according to the commenter, in Ruling No. 056047, dated June 21, 1978, Customs found that a practically identical moon boot, except that the stitched-in lining extended down below the insole, had a foxing which overlapped the upper and therefore classified it under item 700.60, TSUS. In so doing, Customs apparently concluded that a pre-molded unit sidewall overlaps the upper only if the sidewall extends above the point on a shoe at which Customs considers the exterior surface area of the upper to begin, to wit, at the bottom of the insole. Nothing in the statute, its legislative history, or any judical decision gives the slightest suggestion that the overlapping of the upper by the foxing must only occur at the insole.

Plainly, the test should not depend on where the overlapping occurs, but rather if there is any overlapping of the upper by the foxing, for that is what the tariff provision requires.

There is only one reasonable and logical way of construing the foxing exclusionary clause in a fashion which is consistent with its legislative history and does not expand upon the words of the provision itself. The overlapping of the upper can occur at any point where the upper material is overlapped by the foxing, whether that be at, below, or above, the insole.

One commenter states that a moon boot having a band with the appearance of a foxing molded into the unit bottom at the point where the sole/upper joint would ordinarily be, possesses a "foxing-like" band. The same would be true if the boot possesses simulated "heel cap" foxing.

Another commenter would exclude from classification under item 700.56, TSUS, a moon boot having a raised cast in the mold design which is molded at the sole, overlaps the upper (the remainder of the sidewall over which the raised design is superimposed), and presents a foxing-like appearance.

POSITION OF IMPORTERS

The major premise underlying the arguments presented on behalf of the importers is that the foxing provisions of the TSUS should be interpreted narrowly.

(1) POSITION OF IMPORTERS: LEGISLATIVE INTENT

Some importers take the position that the limited legislative history confirms the fact that the only footwear to be affected by the exclusionary language was confined to the traditional sneaker or tennis shoe.

Other importers take a more liberal view asserting that the exclusionary language which precedes item 700.56, TSUS, was intended by Congress to preclude classification in that provision and its predecessors of imported footwear with plastic uppers "having the general outward appearance of the traditional sneaker or tennis shoe."

One commenter expressed the view that the legislative intent was accurately expressed in the following excerpt from the March 1981 Summary of Trade and Tariff Information on Rubber Footwear (USITC Publication 841).

> Item 700.59 provides for slip-on footwear and footwear with open toes or open heels. Items 700.61–700.63 provide for footwear that is held to the foot with the use of laces, buckles, or other fasteners and that is of cement construction and is primarily intended to cover joggers. Items 700.64, 700.67, 700.69, and 700.71 provide for similar footwear of other than cement construction, and primarily covers sneakers or tennis shoes. Item 700.57 in the new nomenclature provides for certain protective footwear.

Another commenter pointed out that the limited scope of the phrase "foxing or foxing-like band" is confirmed in the August 1979 analysis of the Multilateral Trade Negotiations (MTN) Customs Valuation Agreement, which confirms that the intent was to separate sneaker type shoes (TSUS items 700.64–700.71) from joggers (TSUS items 700.61 700.63) through the utilization of foxing terminology. (Committee on Finance, U.S. Senate MTN Studies 6, Part 2, p. 78).

In order to reinforce their position that an exclusionary clause in the tariff schedules should be narrowly interpreted, several commenters noted that it is of special significance that the Customs Court [now the Court of International Trade] found that an exception clause in a statute must be strictly construed in accordance with the legislative purpose underlying the statute. *International Seaway Trading Corp.* v. *United States*, 69 Cust. Ct. 144, C.D. 4385 (1972); *Canadian Pac. Ry. Co.* v. *United States*, 73 F.2d 831, 834 (CCA 9, 1934).

(2) POSITION OF IMPORTERS: COMMON AND COMMERCIAL MEANING

It is a fundamental principle of customs law that tariff terms are to be construed in accord with their common meaning except that a different commercial meaning shall prevail in the absence of a clearly expressed legislative intent to the contrary.

The common meaning of the term "foxing" connotes trim added to the upper of a shoe. However, the common meaning is limited to leather footwear.

It is claimed that the common meaning was not intended by Congress because only rubber soled footwear is involved and the exclusionary language covers only those forms of foxing applied or molded at the sole and overlapping the upper.

The term "foxing" has a different more precise meaning, a commercial designation, which applies to rubber soled footwear with fabric uppers. A commercial designation which differs from the common meaning prevails over the common meaning. *American Express Co.* v. *United States*, 10 Ct. Cust. Appls. 295, T.D. 38680 (1920).

Commercial designation is established through sworn testimony of those experienced in buying and selling the merchandise at wholesale. *Daniel Green Shoe Co.* v. *United States*, 58 Cust. Ct. 7, C.D. 2868 (1967) Appeal dismissed, 54 CCPA 143 (1977). It is also established through reference to published materials such as the American Footwear Industries Association pamphlet entitled "The Art and Science of Footwear Manufacturing" (New York 1974), which defines the foxing in issue. See *Dolliff & Company Inc.* v. *United States*, 59 CCPA 101, C.A.D. 1047 (1972).

Based on such sworn testimony and reference to published materials defining foxing, it has been established that the commercial meaning or the trade understanding of the term "foxing" is that it is a strip wrapped around a shoe at the point where the upper and sole are joined. It is a component separate from either the sole or the upper and secures the sole or bottom and upper.

One commenter noted that a different definition for foxing exists. That definition is found in a B. F. Goodrich Company pamphlet entitled "Canvas Rubber and Koroseal Footwear Definitions" (1959). Foxing in that publication is described as:

> A thin narrow strip of material wrapped around the shoe upper, where it is joined with the outsole, which is folded under before attaching the outsole to the upper.

It is claimed that this type of foxing does not fall within the exclusion because it does not overlap the upper, which connotes an extension from one location to another. In this "foxing under" method the strip does not extend to the upper, but merely covers the upper, therefore, there is no overlap.

(3) POSITION OF IMPORTERS: CHARACTERISTICS OF FOXING

A foxing is a strip of material which has the following characteristics:

(1) Is separate from the sole or upper;

(2) Covers and secures the joint between the sole and upper;

(3) Overlaps the upper and covers the juncture between the sole and upper. [One commenter suggests that the overlap should be significant and readily discernible to the eye, and should be more than *de minimus*. Anything less than ⅛ inch "overlap" should be considered *de minimus*];

(4) Is a band, *i.e.*, "a strip serving to join, hold together or integrate two or more things . . . a thin, flat encircling strip, strap, or flat belted material serving chiefly to bind or contain something";

(5) Encircles the entire shoe;

(6) Is attached by vulcanizing. [Another commenter states that foxing may be attached by any means including cement, stitching, vulcanizing or molding];

(7) Excludes components known by another name clearly recognized in the trade, such as mock welts, toe bumpers, mud guards, wedge wraps, California construction, and platform wraps; and

(8) Excludes unit molded bottoms.

In doubtful cases it is appropriate to look at the general class of footwear intended to be covered by the tariff provisions involved in order to avoid a result which is obviously not in harmony with legislative intent.

(4) POSITION OF IMPORTERS: CHARACTERISTICS OF A FOXING-LIKE BAND

(1) There is no trade understanding or commercial designation for the term "foxing-like band."

(2) Some of the briefs submitted on behalf of shoe importers indicate that a foxing-like band must be a separate component. Other submissions maintain that there need not be a separate band. For example, foxing-like bands may be found on many sneakers with rubber or plastic uppers including shell molded and injected molded varieties.

(3) A foxing-like band does not secure the joint between sole and upper. However, there is disagreement among the importers on this point. One commenter asserts that a foxing-like band must itself reinforce or supplement the juncture between the sole and upper of the footwear or must so closely simulate that function as to cause a person to reasonably believe that the foxing-like band is there solely for the purpose of reinforcement or to supplement.

(4) A foxing-like band must be applied or molded at the sole and must overlap the upper.

(5) A foxing-like band may be attached by methods other than vulcanization.

(6) The term "foxing-like" does not mean a "simulated" foxing, but instead applies to that which has the same, or nearly the same appearance, qualities, or characteristics as a true foxing appearing on a traditional tennis or sneaker-type shoe.

(7) The common meaning of the term "foxing-like band" is that it differs from "foxing" per se only with respect to functionality.

(8) A foxing-like band is usually cemented rather than molded.

(5) POSITION OF IMPORTERS: INTERPRETATION OF PHRASE "MOLDED AT"

The phrase "molded at" does not cover injection molded processes. Rather, it describes processes in which a foxing, created separate from the sole, is vulcanized to the sole and upper rather than merely cemented. As used in the parenthetical exception, molded is a synonym for vulcanized.

The phrase "molded at" does not require that the commercial meaning of the term "foxing", as a component separate from the sole or upper, be abandoned. Properly understood, it compliments the commercial meaning. Reading "molded at" as a synonym of vulcanized is consistent with the legislative history which clearly explains the parenthetical exception as a description of the traditional sneaker or tennis shoe, a form of footwear constructed with a foxing.

(6) Position of Importers: Footwear With Unit Molded Soles

Footwear with unit molded soles do not have a foxing or a foxing-like band for the following reasons:

(1) There is no band which is applied to or molded at the sole.

(2) There is no strip separate from the sole or upper.

(3) To the extent that the molded sole overlaps the upper and covers the juncture between the sole and the upper, such overlap is *de minimus.*

(4) The overlap is not functional, but rather a result of stylistic considerations.

(5) The appearance of casual footwear made by this construction is foreign to sneakers and other athletic footwear.

In Customs Ruling No. 068764 dated August 14, 1981, footwear with a unit molded bottom was said to have a foxing because the sole extended higher than the point at which the upper turned under the insole.

The importers assert that footwear with unit molded soles has neither a foxing nor a foxing-like band. The so-called foxing is in reality a part of the sole. It is not a separate component. It is not a band. It is not applied or molded at the sole. It is a part of the sole. The lip or edge of the sole cannot cover the seam between the sole and the upper because it creates that seam.

With respect to the lip, another commenter maintains that the lip does not perform the function of a foxing in that it does not overlap the upper as foxing does nor does it strengthen the joint between the upper and sole. Such strengthening is unnecessary because of the cement process.

Another commenter claims that evidence that a lip is not foxing is found in the headnote to item 700.61, TSUS, et seq. There are two exception clauses designed to separate "joggers" from sneaker type shoes, "footwear having a foxing or foxing-like band applied to or molded at the sole and overlapping the upper" and "footwear with soles which overlap the upper other than at the toe or heel." If, in fact, a lip or ridge which is in effect part of the molded shell bottom of an injected molded piece of footwear is foxing or a foxing-like band, there would be no need for the second exception of soles overlapping the upper. In fact, this second exception correctly describes a product in which the sole extends upward so that it may overlap the upper and clearly indicates such construction is not properly defined as "foxing or a foxing-like band."

(7) POSITION OF IMPORTERS: FOOTWEAR OF THE SLIP-LASTED (CALIFORNIA) CONSTRUCTION

Footwear of the slip-lasted (California) construction does not contain a foxing or a foxing-like band within the established definition for the following reasons:

(1) The strip of material, or wrap does not secure the joint between the sole or upper. In fact, the strip does not overlap the sole at all,

(2) The strip or wrap cannot be said to be a "foxing-like band" since without covering the juncture between the sole and the upper it cannot be said to simulate functional "foxing", and

(3) The appearance of casual footwear made by this construction is foreign to "sneakers" and other athletic-type footwear.

(8) POSITION OF IMPORTERS: MUD GUARDS, WEDGE WRAPS, PLATFORM WRAPS, ETC.

Mud guards, wedge wraps, platform wraps, etc., are entirely stylistic and do not function as foxing or simulate foxing. They do not come within the purview of the exclusionary language for the following reasons:

(1) These features are known in the trade as "mud guards," "wedge wraps," "platform wraps," etc., rather than as "foxing or foxing-like bands";

(2) These features do not cover or secure the joint between the sole and the upper; and

(3) Perhaps most important, these constructions are foreign to "sneakers" and other athletic-type footwear and, therefore, fall outside the tariff understanding of the term "foxing or foxing-like band".

(9) POSITION OF IMPORTERS: MOON BOOTS

Moon boots do not contain a foxing or a foxing-like band for the following reasons:

(1) They are not within the class of footwear which Congress intended to protect;

(2) There is no separate piece of material used to join the bottom of the boot to the upper or which is used to strengthen the joint between the sole and the upper as those terms are understood by Customs and the moon boot industry;

(3) If one considers the joint between the sole and the upper to be the point where the insole ends, the sides of the molded shell bottom simply constitute the joint itself and are not applied separately as a foxing; and

(4) If one considers the juncture between the sole and upper to be the point where the pre-molded shell bottom ends and the stitched portion of the boot begins, there is, again, no piece of material reinforcing this joint.

A plastic non-functional lip or ridge molded parallel to the sole of the one piece bottom should not be considered foxing for the following reasons:

(1) There is no structural difference between the one piece molded shell bottoms which have the ridge and those that do not. Where a ridge exists, it is there for purely stylistic purposes and has no useful function;

(2) Not only does the lip not serve to cover the joint between the sole and upper, it does not overlap the sole, rather it is part of the bottom. Where a lip exists in the molded shell bottom, it is usually a decorative strip half-inch to an inch above the sole. This has no structural or functional resemblance to a foxing or foxing-like band; and

(3) The lip or ridge bears no resemblance to the foxing or foxing-like band found on sneakers or tennis shoes.

It has also been pointed out that in some instances because the bottom of the ornamented strip is above the insole platform, it is a part of the upper and therefore cannot overlap itself.

The classification of a vinyl upper plastic shell bottom moon boot should not depend on the existence or position of a ridge which has no practical function, nor on basic design characteristics which have no component recognizable as foxing.

CUSTOMS POSITION

The relevant TSUS provisions provide as follows—

> Footwear (whether or not described elsewhere in this subpart) which is over 50 percent by weight of rubber or plastics or over 50 percent by weight of fibers and rubber or plastics with at least 10 percent by weight being rubber or plastics:
>
> * * * * * * *
>
> Other footwear (except footwear having uppers of which over 50 percent of the exterior surface area is leather):
>
> Having uppers of which over 90 percent of the exterior surface area is rubber or plastics (except footwear having *foxing* or a *foxing-like band* applied or molded at the sole and overlapping the upper) (emphasis added):
>
> 700.54 Zoris (thonged sandals).
>
> 700.56 Other.
>
> * * * * * * *
>
> 700.59 Footwear with open toes or open heels; footwear of the slip-on type, that is held to the foot without the use of laces or buckles or other fasteners, the foregoing except footwear provided for in item 700.57 and except footwear having a *foxing* or *foxing-like band* wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper (emphasis added).

Other:

700.61-.71 Footwear having soles (or midsoles, if any) of rubber or plastics which are affixed to the upper exclusively with an adhesive (any midsoles also being affixed exclusively to one another and to the outsole with an adhesive); the foregoing except footwear having a *foxing* or *foxing-like band* applied to or molded at the sole and overlapping the upper and except footwear with soles which overlap the upper other than at the toe or heel: (emphasis added).

The first issue to be resolved relates to a determination of the meaning of the terms "foxing" or "foxing-like band" as they pertain to rubber soled footwear with fabric uppers.

It is a cardinal principle of customs law that tariff terms are to be construed in accordance with their common meaning unless there is a different commercial meaning. In such cases, the latter shall prevail in the absence of a clearly expressed legislative intent to the contrary. *Jas. Akeroyd & Co. et al.* v. *United States,* 15 Ct. Cust. Appls. 440, T.D. 42641 (1928); *United States* v. *Fung Chong Co.,* 34 CCPA 40, C.A.D. 342 (1964).

The common meanings of the term "foxing" as the term is traditionally used, have been defined as follows:

> A piece of leather put on the upper leather of the shoe along the edge next to the sole. Funk and Wagnalls' New Practical Standard Dictionary (1958).
>
> A piece of material applied to the upper or extending around the outsole of a boot or shoe. Webster's Third International Dictionary (1961).

These common or traditional definitions of foxing relate to leather footwear. Inasmuch as the provision covers foxing applied or molded at the sole and overlapping the upper, it is clear that Congress did not intend that the term "foxing" be construed in accord with its common meaning. In view of this inconsistency, it is equally clear that Congress went beyond the common or traditional meaning of the term "foxing" and adopted a more precise meaning found in the commercial designation of the term as it applied to rubber soled footwear with fabric uppers. A commercial designation which differs from the common meaning prevails over the common meaning. *American Express Co.* v. *United States, supra.*

Commercial designation may be shown through reference to trade publications. See *Dolliff & Company, Inc.* v. *United States, supra.* For example, relevant definitions from trade publications are as follows:

> With rubber soled canvas upper shoes, foxing is usually a strip of rubber covering the joint between the sole and upper. The Art and Science of Footwear Manufacturing (American

> Footwear Industries Association 1974). A thin narrow strip of material wrapped around the shoe upper, where it is joined with the outsole, which is folded under before attaching the outsole to the upper. B. F. Goodrich Company pamphlet entitled "Canvas Rubber and Koroseal Footwear Definitions" (1959).

The above-cited definitions encompass the commercial or trade understanding of foxing. However, it is contended that the B. F. Goodrich definition does not fall within the exclusionary language because the strip does not overlap the upper, which connotes an extension from one location to another. It is Customs view that the B. F. Goodrich definition satisfies the exclusionary language because the strip can be considered as being applied at the sole, noting that it is folded under at the juncture of the sole and upper and it does extend upward thus overlapping the upper. It also acts to reinforce or supplement the juncture of the sole and upper.

The term "foxing-like band" has no commercial meaning. The meaning of "like" in customs usage connotes articles having the same, or nearly the same appearance, qualities, or characteristics. *Japan Import Co.* v. *United States,* 24 CCPA 167, T.D. 48642 (1936).

Thus, a foxing-like band has the same, or nearly the same appearance, qualities, or characteristics of foxing. It follows that something which is molded to look like "foxing" is "a foxing-like band" even if it performs no function. Undoubtedly, Congress used the term "foxing-like" to broaden the historical protection afforded the domestic industry through the foxing parenthetical exception.

Specifically, in using the term "foxing-like band", it is apparent that Congress intended to include rubber and plastic footwear that is not constructed with a traditional separate functional foxing. For example, certain injection molded sneakers have foxing-like bands. Upon completion, there exists a strip which covers what appears to be (but is not in fact) the joint between the upper and the sole. Unlike foxing, the foxing-like band is not a separate component but appears in all respects to be one. Thus, the foxing-like band envisioned by Congress applied to footwear constructed in a manner so that the end result was a shoe appearing to have the traditional foxing.

A sneaker with a shell bottom construction also has a foxing-like band. In that construction the sole is made or molded in one process and, rather than being merely the bottom or outsole portion, the molding process results in a cup-like unit (the sole) into which the upper is glued and sometimes sewn. The molded shell when affixed to the upper resembles in appearance and position a separately applied functional foxing.

The second issue relates to a determination of the types and characteristics of footwear which Congress intended to exclude from item 700.55, TSUS, the original predecessor provision to item 700.56, TSUS.

The Tariff Classification Study, Schedule 7, Explanatory and ickground Materials (November 15, 1960), at page 214, contains e only direct reference to the parenthetical exception and reads follows:

> The parenthetical exception "except footwear having foxing or a foxing-like band applied or molded at the sole and overlapping the upper" in item 700.55 is designed to ensure the classification in item 700.60 of a style of imported shoe with plastic coated uppers but having the general outward appearance of the traditional "sneaker" or tennis shoe.

In C.I.E. 187/64, dated January 31, 1964, Customs categorically ated that the parenthetical exception in item 700.55, TSUS, refers ecifically to the traditional sneaker or tennis shoe.

The foregoing interpretation of the parenthetical exception was odified by Customs in C.I.E. 187/64 supp. #1, dated April 19, 966, which was abstracted as T.D. 66-47(8). In that ruling, Cusms took the position that footwear of the type normally classifiole under item 700.55, TSUS, but which have a functional or nonnctional foxing or foxing-like band applied or molded at the sole id overlapping the upper, are precluded from classification under em 700.55 whether or not of the traditional "sneaker" or tennis pe.

It remains Customs opinion that C.I.E. 187/64 reflects the correct terpretation of the exclusionary language. This view is further ittressed by the language found in item 700.59, TSUS, one of the placement item numbers for item 700.60, TSUS, added by the ade Agreements Act of 1979, which reads as follows:

> Footwear with open toes or open heels; footwear of the slip-on type, that is held to the foot without the use of laces or buckles or other fasteners, the foregoing except footwear provided for in item 700.57 and except *footwear having a foxing or foxing-like band wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper.* (Emphasis added).

A reading of item 700.59, TSUS, which includes casual footwear the slip-on type, indicates that such footwear may contain "a xing or foxing-like band wholly or almost wholly of rubber or astics applied or molded at the sole and overlappng the upper." nsequently, it follows that the exclusionary language is not dicted solely to sneakers or tennis type shoes.

Although the parenthetical exception in item 700.55, TSUS, was t limited by the legislative history to the traditional sneaker or nnis shoe, a limitation was contained therein. Specifically, shoes bject to the exclusionary language must have "the general outrd appearance of the traditional 'sneaker' or tennis shoe." It is parent that the distinguishing feature or the essence of this genal outward appearance was the presence of *a visible outside ting.* (Emphasis added.)

It is contended by the domestic interests that Congress must be presumed to have known in the early 1960's that foxing was used in and was a characteristic of a variety of shoes including slip-lasted and unit molded construction and intended that such constructions would fall within the parenthetical exception. In fact, the claim is also made that the language applies to all footwear containing any type of foxing or foxing-like bands. Further, the fact that this legislative history specifically mentioned a sneaker-like vinyl shoe in describing the intent of the foxing exclusion does not imply that the excluson of such shoes exhausted the intent of the exception.

A fair reading of the legislative history of the parenthetical exception in item 700.55, TSUS, quoted previously, gives no indication that all foxing constructions were to be encompassed by the exception. It is obvious that if Congress had intended the exception to include all types of foxing, such an intention would have been clearly expressed in the legislative history.

Further, it appears that an expansive interpretation of the parenthetical exception runs contrary to judicial precedent. See *International Seaway Trading Corp.* v. *United States*, 69 Cust. Ct. 144, C.D. 4385 (1972) and *Canadian Pac. Ry. Co.* v. *United States, supra*, which, as noted earlier, expressed the principle that an exception clause in a statute must be strictly construed in accordance with the legislative purpose underlying the statute.

Inasmuch as the foxing on the traditional sneaker or tennis shoe visibly overlapped the upper, Customs must necessarily conclude that unit molded footwear with plastic uppers do not, per se, have the type of visible outside foxing contemplated by the statute and consequently do not fall within the parenthetical exception.

It is also Customs view that footwear of the slip-lasted (California) construction does not contain foxing or a foxing-like band. This is so because this type construction does not exhibit a visible foxing which resembles that found in the traditional sneaker or tennis shoe. Consequently, such footwear does not contain foxing or a foxing-like band for tariff purposes.

The third issue relates to a determination of whether moon boots of a particular construction possess foxing or a foxing-like band.

The moon boot involved is a type of footwear designed to protect the feet from snow and cold. It is often worn as an "apres-ski" boot. It has a pre-molded rubber/plastic shell bottom, the sides of which extend up to 4 inches from the sole. This shell bottom is ultimately stitched to a polyurethane upper. An inserted polyfoam liner is permanently stitched at the top of the polyurethane upper. There are no design features such as a lip or ridge molded in the shell bottom which could be considered a foxing-like band.

This type of moon boot was the subject of an American manufacturer's petition asking that it be reclassified under item 700.60, TSUS, or item 700.53, TSUS. That request for reclassification was rejected by Customs in T.D. 81-79, published in the Federal Register on April 13, 1981 (46 FR 21741).

One commenter has renewed the argument that this type of moon boot possesses foxing or a foxing-like band and consequently should be excluded from classification under item 700.56, TSUS. Customs will not now address this argument because its position in this matter is clearly established in T.D. 81-79.

A claim has been advanced that the above-described moon boot with the addition of a design feature such as a lip or ridge in the form of a band molded on the shell bottom at the point where the sole/upper juncture would ordinarily be, possesses a foxing-like band which would exclude it from classification under item 700.56, TSUS.

An analysis of the parenthetical exception indicates that for the design feature in the form of a band to be considered a foxing-like band, it must be molded at the sole and must also overlap the upper. It is noted that for definitional purposes, the sole and upper can be separately conceived. However, in actuality, that portion of the shell bottom where the design feature is placed is an integral part of the combined sole and upper. The design feature molded in the shell bottom can be considered as being molded at the sole because part of the feature lies below the point where the sole/upper uncture would ordinarily be. However, this design feature cannot be said to overlap the upper because it is an integral part of the combined sole and upper. Consequently, the design feature decribed cannot be considered a foxing-like band for tariff purposes.

SUMMARY OF CUSTOMS POSITION

(1) Footwear of unit-molded construction does not, per se, contain oxing or a foxing-like band for tariff purposes.

(2) Footwear of slip-lasted (California) construction does not posess foxing or a foxing-like band for tariff purposes.

(3) Moon boots of the type described in T.D. 81-79 and those with lip or ridge molded in the shell bottom, do not have foxing or a oxing-like band for tariff purposes.

CUSTOMS GUIDELINES RELATING TO CHARACTERISTICS OF FOXING AND A FOXING-LIKE BAND

The following guidelines relating to the characteristics of a oxing or a foxing-like band are set forth as an aid to Customs offiers in classifying specific footwear constructed with foxing.

CHARACTERISTICS OF A FOXING

1. A foxing is a strip of material which is separate from the sole nd upper.

2. A foxing secures the joint between the sole and upper. It overs the joint but there may be other footwear with a "foxing

under" which does not cover the joint as in the B. F. Goodrich definition of foxing previously cited.

3. A foxing must overlap the upper and the overlap must be readily discernible.

4. A foxing is a band, *i.e.*, a strip serving to join, hold together or integrate two or more things . . . a thin, flat encircling strip, strap, or flat belted material serving chiefly to bind or contain something.

5. A foxing must encircle or substantially encircle the entire shoe.

6. A foxing may be attached by cementing, stitching, or vulcanizing.

7. A foxing does not include components known by another name clearly recognized in the trade such as mock welts, toe bumpers, wedge wraps, and platform wraps.

8. However, a mud guard may meet the definition of a foxing. It is usually applied at the sole and folded under at the juncture of the sole and upper and it does extend upward overlapping the upper. It also acts to reinforce or supplement the juncture of the sole and upper.

CHARACTERISTICS OF A FOXING-LIKE BAND

There is no trade understanding or commercial designation for the term "foxing-like band."

1. The term "foxing-like" applies to that which has the same, or nearly the same appearance, qualities, or characteristics as the foxing appearing on the traditional sneaker or tennis shoe.

2. A foxing-like band need not be a separate component.

3. A foxing-like band may or may not secure the joint between the sole and upper.

4. A foxing-like band upper must be applied or molded at the sole and must overlap the upper.

5. A foxing-like band must encircle or substantially encircle the entire shoe.

6. A foxing-like band may be attached by any means.

7. Unit molded footwear is considered to have a foxing-like band if a vertical overlap of ¼ inch or more exists from where the upper and the outsole initially meet, measured on a vertical plane. If this vertical overlap is less than ¼ inch, such footwear is presumed not to have a foxing-like band.

DRAFTING INFORMATION

The principal author of the document was Jesse V. Vitello, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

WILLIAM VON RAAB,
Commissioner of Customs.

Approved: May 6, 1983.

JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, May 23, 1983 (48 FR 22904)]

(T.D. 83-117)

Guidelines for Disposition of Violations of the Timely Entry Summary Filing Requirements—1983 Revision

1. INTRODUCTION

The following materials have been distributed throughout the Customs Service as Manual Supplement 4400-11, dated April 20, 1983. This Manual Supplement revoked Manual Supplement 4400-01, dated November 18, 1980, and promulgated new procedures and guidelines for disposing of violations of the timely entry summary filing requirements contained in Part 142, Customs Regulations (19 CFR Part 142) as authorized by sections 484(a) and 448(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1484(a) 1448(b)). Manual Supplement 4400-01 was also published at T.D. 80-298 which is revoked by this Treasury Decision.

2. BACKGROUND

When merchandise is released under sections 142.3(a) and 142.21, Customs Regulations (19 CFR 142.3(a), 142.21) before the entry summary is filed, the entry summary must be filed within 10 working days in accordance with sections 142.21(a) and 142.23, Customs Regulations (19 CFR 142.21(a), 142.23). An importer filing the entry summary late is subject to a demand for liquidated damages in the amount of the value of the goods plus any duties and taxes owing (see section 113.14(g) (1) and (2), Customs Regulations (19 CFR 113.14(g) (1) and (2)).

The demand is made using the CF 5955A and the violator offered the opportunity to petition for relief. Until January 1981, guidelines set forth in the Fines, Penalties and Forfeitures Handbook and section 172.22(d), Customs Regulations, had been applied in disposition of the cases.

With Manual Supplement 4400-01 (November 18, 1980), the Customs Service instituted new procedures designed to expedite the processing of so-called "late-filing" or "untimely-filing" cases. Violators have been given two options: (1) pay a specified sum, called a calculated mitigated amount; or (2) petition for relief.

The 1981 guidelines were designed to take advantage of the routine nature of the cases and the frequent lack of mitigating explanation for the violations. The new guidelines also raised basic mitigated or "penalty" amounts in most cases to a minimum $100.

Initially, violators paid the Option 1 amount under the 1981 guidelines and cases were processed more expeditiously. Over a period of time, however, it became apparent that there were certain inequities in those guidelines, primarily in the calculated mitigated amounts. As a consequence, the Customs Service has undertaken a study of the guidelines and their effectiveness.

New procedures were tested and proposed revisions considered. Both field offices and importers were given an opportunity to comment on proposed changes. The following guidelines are the product of those efforts.

The basic option arrangement has been retained. The Option 1 amount, however, is calculated differently. Violators will be assessed an administrative charge of $50 plus interest on the withheld duty at the rate of .1 percent per calendar day that the entry summary and duty were late. Tables setting forth Option 1 interest amounts will be provided our field offices. Flat fees are to be assessed for duty-free entry summaries which are filed untimely.

Although the right to petition is protected, the bases upon which further relief will be granted in most cases have been substantially circumscribed. The CF 5955A late-filing notice has been amended to reflect this.

3. Policy Considerations

These new guidelines represent a refinement of Customs policy in late filing cases. These cases do not per se represent a major enforcement problem. Although they may occur in substantial numbers in some districts, the violations are generally routine and not in any sense part of an ongoing scheme to defraud the revenue. If, on the other hand, Customs should discover evidence of fraud in a particular case, there are other more severe sanctions at our disposal.

What has emerged is the realization that, because an importer for whatever reason is borrowing the duty from the government for the length of time the entry summary and duty are late, Customs should mitigate liquidated damages amounts based in part upon a reasonable interest charge for the time the duty is withheld. There is, of course, an expense to the government to process the late entry and the requirement that a mitigated amount also serve to discourage future violations.

We have calculated the basic average cost to Customs for processing a late filing case to be $50. That is the administrative fee we will charge under these new guidelines. The annual percentage rate of 36.5 percent is certainly higher than an importer would obtain elsewhere. The two charges together constitute a sufficient deterrent to maintain compliance levels nationwide.

The final step of limiting the bases upon which further relief will be granted will serve to discourage frivolous petitions and ultimately to make administration of our late filing procedures much more efficient and productive. Importers may look to these guidelines and determine what an untimely filing will cost and know as a certainty the limits of relief they can expect.

We expect the end result of this new procedure will be an appro-riately less visible place in Customs operations for late filing cases nd ultimately an overall reduction in their occurrence.

ACTION

Commencing May 1, 1983, the Customs Service shall issue de-ands for liquidated damages for failure to file entry summaries mely in accordance with the following instructions.

a. *Modified CF 5955A.* Notices of Liquidated Damages Incurred CF 5955A) shall be issued on the modified form attached as At-chment A—1983 Revision (Attachment A may be photocopied or ne information may be typed on each CF 5955A at the discretion f each field office). The modified form specifies two options from hich the petitioner may choose to resolve the demand made gainst him.

(1) *Option 1.* He may pay a specified sum within 60 days and the ase will be closed. By electing this option in lieu of petitioning, he aives his right to file a petition. He may, however, file a supple-ental petition, if he does so in accordance with the Customs Regu-tions and has some new fact or information which merits consid-ration in accordance with these guidelines.

(2) *Option 2.* The second option is to file a petition seeking pre-umably more relief than would be had by paying the mitigated mount specified.

> (a) When the entry summary is late by less than 30 days, the District or Area Director shall grant further relief *only* when the petitioner has demonstrated either
>
> (1) That the violation did not occur; or
> (2) That it was the result of Customs error.
>
> (b) When the entry summary is late by 30 days or more, the District or Area Director may consider the following factors in response to a petition for further relief:
>
> (1) The circumstances causing the delay;
> (2) The extent of the lateness;
> (3) The amount of duty involved (the higher the amount of withheld duty the greater the advantage to the violator, and as a corollary, the longer it is withheld the greater still the advantage);
> (4) The past record of the importer or broker in filing entry summaries timely; and
> (5) The importer's or broker's lack of intent to file his entry summary untimely (an uncorroborated statement to this effect would generally be insufficient).
> (6) Ordinarily, mitigation granted under Option 2 shall not be in an amount less than the amount determined in accordance with Option 1 unless the petitioner has presented extraordinary mitigating factors which justify so doing.

b. *Calculation of Mitigated Amount.* The amounts to be set forth der Option 1 on the CF 5955A shall be calculated as follows:

(1) *Dutiable Entry:* entry summary filed late:

> **The importer of record shall be charged an administrative fee of $50 plus interest on the withheld duty at the rate of .1 percent (.001) per calendar day that the entry summary and/or duty were late. The interest amount shall be rounded *up* to the next dollar. For purposes of this calculation the duty amount shall be rounded *down* to the next dollar (see paragraph h. below for further explanation).**

(2) *Entry for which there is No Withheld Duty* (including duty-free entry and dutiable entry rejected, refiled late with no withheld duty):

> Entry summary filed late: $50.

c. *Date-Stamping or Receipt System.* To the extent possible and necessary, each district will establish procedures to date stamp entry summaries when filed in the presence of the person filing the summary or provide a receipt (validated broker copy) for the summary filed. These procedures will serve to eliminate claims in one-day late cases that Customs misstamped the date of presentation.

d. *Entry Summary Not Filed.* If at the time the demand for liquidated damages is issued the entry summary has not been filed, the full amount of liquidated damages shall be assessed and no mitigated amount shall be offered under Option 1. A prerequisite for any mitigation under these guidelines is that the entry summary has been filed and the duty deposited. Therefore, no demand will be mitigated until the summary is filed and the duty deposited.

e. *Second Offenses.* These guidelines provide for charging an administrative fee plus interest for each late filing case. Accordingly, the fact that a violation is a second or greater offense is important only to determine an importer's record within the context of 3.a.(2)(b) above. If an importer frequently abuses his privileges and fails to meet his obligations under immediate release procedures, steps will be taken in accordance with the regulations and existing policy directives to suspend those privileges.

f. *Open Cases.* Customs officers may apply these revised guidelines to all cases pending at any stage of the administrative process as of the date of this Manual Supplement. This applies to cases under supplemental as well as initial petition, and to cases for which notices have been issued but no response received. Payments made of Option 1 amounts determined under the 1981 guidelines shall be accepted. It is generally the violator's responsibility to petition for additional relief.

g. *Closed Cases.* Customs will not reopen closed cases solely to permit a petitioner to take advantage of these new guidelines. Supplemental petitions filed on cases previously settled under the 1981 guidelines will be disposed of under the 1981 guidelines if filed after April 1, 1983. This is based upon the presumption that the supplemental petition will have been filed solely to take advantage

the benefits of these 1983 guidelines. A district or area director
regional commissioner, however, retains the discretion to miti-
e further in response to a supplemental petition if he finds such
ion is warranted.

. *Interest Chart.* A chart setting forth interest amounts to be
rged in accordance with section 4.b.(1) of this directive has been
pared and is being distributed separately. The chart sets forth
erest for duty amounts from $1 to $10,000 when the duty in that
ge is deposited between one and 30 days late. Late filing viola-
ns which fall outside this range will have to be individually cal-
ated.

he chart sets forth duty amounts only in dollar increments. Ac-
dingly, duty amounts will be rounded *down* in order to use the
rt. For example, in order to determine the amount of interest
$1,758.94 deposited one day late, the user would look to $1,758
the chart ($2). The actual calculation is $1,758 times .001 equals
$1.75 rounded *up* to the next dollar).

or late filing violations that have to be individually calculated,
dollar amount shall be similarly rounded *down,* multiplied by
and the number of days late, and then rounded *up* to the next
ar. For example, $14,323.74 in duty filed four days late would
alculated as follows: $14,323 times .001 equals $14.32 times four
als $58 ($57.29 rounded up).

UPERSEDED MATERIAL

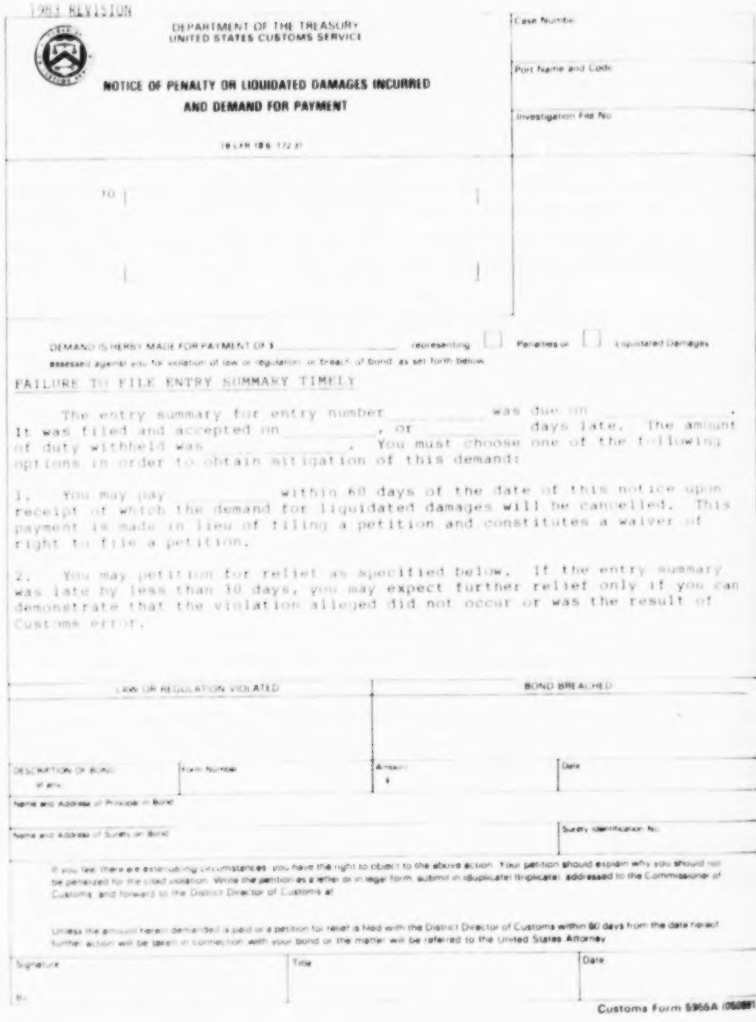
reasury Decision (T.D.) 80-298 is hereby revoked and supersed-
y this Treasury Decision. Manual Supplement 4400-01, dated
ember 18, 1980, is also superseded by Manual Supplement
-11, dated April 20, 1983.

chment.

le: CO:R:E:M, 614485 JP.

ated: May 12, 1983.

ROBERT P. SCHAFFER,
Assistant Commissioner
(Commercial Operations).



1983 REVISION

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

NOTICE OF PENALTY OR LIQUIDATED DAMAGES INCURRED
AND DEMAND FOR PAYMENT

(19 CFR [illegible])

Case Number

Port Name and Code

Investigation File No.

TO

DEMAND IS HEREBY MADE FOR PAYMENT OF $ ________ representing ☐ Penalties or ☐ Liquidated Damages assessed against you for violation of law or regulation or breach of bond as set forth below.

FAILURE TO FILE ENTRY SUMMARY TIMELY

The entry summary for entry number ________ was due on ________. It was filed and accepted on ________, or ________ days late. The amount of duty withheld was ________. You must choose one of the following options in order to obtain mitigation of this demand:

1. You may pay ________ within 60 days of the date of this notice upon receipt of which the demand for liquidated damages will be cancelled. This payment is made in lieu of filing a petition and constitutes a waiver of right to file a petition.

2. You may petition for relief as specified below. If the entry summary was late by less than 10 days, you may expect further relief only if you can demonstrate that the violation alleged did not occur or was the result of Customs error.

LAW OR REGULATION VIOLATED

BOND BREACHED

DESCRIPTION OF BOND (If any)

Form Number

Amount $

Date

Name and Address of Principal on Bond

Name and Address of Surety on Bond

Surety Identification No.

If you feel there are extenuating circumstances, you have the right to object to the above action. Your petition should explain why you should not be penalized for the cited violation. Write the petition as a letter or in legal form; submit in (duplicate) (triplicate), addressed to the Commissioner of Customs, and forward to the District Director of Customs at

Unless the amount herein demanded is paid or a petition for relief is filed with the District Director of Customs within 60 days from the date hereof, further action will be taken in connection with your bond or the matter will be referred to the United States Attorney.

Signature

By

Title

Date

Customs Form 5955A

19 CFR Part 123

(T.D. 83-118)

Foreign Locomotives and Railroad Equipment

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The rule amends the Customs Regulations to provide that:

1. Foreign locomotives or other foreign railroad equipment in use on a continuous route crossing one international boundary into the United States, shall be admitted without formal entry or the payment of duty to proceed to the end of the run and depart for another foreign country;
2. Foreign railroad equipment other than locomotives may be used in such trains or for such local traffic as is reasonably incidental to its economical and prompt departure for a foreign country; and
3. Empty foreign railroad equipment shall be admitted to the United States without formal entry and payment of duty if the passengers or goods to be loaded are to be transported to or through any foreign country.

A conforming amendment to the regulations relating to foreign-based truck trailers also is made.

This action is taken to remove a serious hindrance to strictly international traffic, while retaining the prohibition against diversions of foreign locomotives and railroad equipment to unpermitted point-to-point local traffic.

The purpose of the amendments is to allow a three country movement (Canada-U.S.-Mexico, or reverse) of foreign locomotives and railroad equipment in international traffic, and thus not subject those locomotives or that equipment to formal entry or duty.

EFFECTIVE DATE: June 24, 1983.

FOR FURTHER INFORMATION CONTACT: John Mathis, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION.

BACKGROUND

Section 322(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1322(a)), provides that vehicles and other instruments of international traffic, of any class specified by the Secretary of the Treasury, shall be granted "the customary exceptions from the applications of the customs laws" to the extent of, and subject to, the terms and conditions prescribed in the regulations or instructions of the Secretary.

Section 123.12(a), Customs Regulations (19 CFR 123.12(a)), presently provides that foreign locomotives or other foreign railroad equipment in use on a continuous route crossing an international boundary into the United States, shall be admitted without formal entry or the payment of duty to proceed to the end of the run and return to the country in which the run began in certain specified situations. Section 123.12(a)(2) further provides that foreign railroad equipment other than locomotives may be used on the outward (*i.e.*, return) trip only in connection with trains crossing the boundary, or for such local traffic as is reasonably incidental to the economical and prompt return of the equipment to the country from which it entered the United States.

In addition, section 123.12(b), Customs Regulations (19 CFR 123.12(b)), now provides that empty foreign railroad equipment shall be admitted to the United States without formal entry and payment of duty only if the passengers or goods to be loaded are to be transported directly to or through the country from which the equipment entered the United States.

However, it is clear that the underlying purpose of sections 123.12 (a) and (b), and their antecedents, was to prohibit wholesale diversions to unpermitted point-to-point local traffic of foreign locomotives and railroad equipment moving through the United States in international traffic, but not to hinder any strictly international traffic.

Accordingly, to give full effect to a 1978 ruling in which Customs held that a three country movement (Canada-U.S.-Mexico) is international traffic, and to eliminate the dichotomy between the strict language of the regulations and current administrative practice, a notice of proposed rulemaking to amend section 123.12 was published in the Federal Register on August 27, 1982 (47 FR 37924).

The proposed amendment to section 123.12(a) provided that foreign locomotives or other foreign railroad equipment in use on a continuous route crossing one international boundary into the United States (*e.g.*, Canada) shall be admitted without formal entry or the payment of duty to proceed to the end of the run and depart for another foreign country (*e.g.*, Mexico). Section 123.12(a)(2) also was to be amended to provide that foreign railroad equipment other than locomotives may be used on an outward trip in such trains or for such local traffic as is reasonably incidental to its economical and prompt departure for a (any) foreign country. The "outward" trip, then, would no longer refer exclusively to a return trip to the country in which the railroad equipment began its run. The equipment might return, or it might proceed to another foreign country.

The proposed amendment to section 123.12(b) provided that empty foreign railroad equipment shall be admitted to the United States without formal entry and payment of duty if the passengers or goods to be loaded are to be transported directly to or through any foreign country.

A conforming amendment also was to be made to section 123.14(c)(2), Customs Regulations (19 CFR 123.14(c)(2)), to provide that a foreign-based truck trailer may carry merchandise between points in the United States on its departure for a foreign country under the same conditions as are prescribed for "other foreign railroad equipment" in proposed section 123.12(a)(2).

No comments were received in response to the notice of proposed rulemaking. Therefore, after a review of the matter Customs has determined to adopt the proposal as described in that notice.

E.O. 12291 AND REGULATORY FLEXIBILITY ACT

It has been determined that the amendment in this document are not a "major rule" within the criteria provided in section 1(b) of E.O. 12291, and therefore no regulatory impact analysis is required.

Pursuant to the provisions of section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), it is hereby certified that the regulations set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, these regulations are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

DRAFTING INFORMATION

The principal author of this document was Todd J. Schneider, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

LIST OF SUBJECTS IN 19 CFR PART 123

Canada, Customs duties and inspection, Exports, Freight, Imports, Mexico, Motor carriers, Railroads.

AMENDMENTS TO THE REGULATIONS

Part 123, Customs Regulations (19 CFR Part 123), is amended as set forth below.

WILLIAM VON RAAB,
Commissioner of Customs.

Approved: May 6, 1983.

JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, May 25, 1983 (48 FR 23384)]

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. Section 123.12(a) introductory text is revised to read as follows:

§ 123.12 Entry of foreign locomotives and equipment in international traffic.

(a) *Use on a continuous route.* Foreign locomotives or other foreign railroad equipment in use on a continuous route crossing the boundary into the United States shall be admitted without formal entry or the payment of duty to proceed to the end of the run and depart for a foreign country, in accordance with the following:

* * * * * * *

2. Section 123.12(a)(2) is revised to read as follows:

§ 123.12 Entry of foreign locomotives and equipment in international traffic.

(a) *Use on a continuous route.* * * *

(2) *On outward trip.* Foreign locomotives may be used on the outward trip only in connection with through trains crossing the boundary, including switching to make up such trains. Other foreign railroad equipment may be used in such trains or for such local traffic as is reasonably incidental to its economical and prompt departure for a foreign country.

* * * * * * *

3. Section 123.12(b) is revised to read as follows:

§ 123.12 Entry of foreign locomotives and equipment in international traffic.

* * * * * * *

(b) *Admission of empty equipment.* Empty foreign railroad equipment shall be admitted to the United States without formal entry and payment of duty only if the passengers or goods to be loaded are to be transported directly to or through a foreign country.

* * * * * * *

4. Section 123.14(c)(2) is revised to read as follows:

§ 123.14 Entry of foreign based trucks, buses, and taxicabs in international traffic.

* * * * * * *

(c) *Use in local traffic.* * * *

(2) A foreign-based truck trailer may carry merchandise between points in the United States on its departure for a foreign country under the same conditions as are prescribed for "other foreign railroad equipment" in § 123.12(a)(2).

R.S. 251, as amended, sec. 14, 67 Stat. 516, as amended, sec. 624, 46 Stat. 759, 77A Stat. 14; and Gen. Hdnte. 11, Tariff Schedules of the U.S. (19 U.S.C. 66, 1202, 1322(a), 1624))

(T.D. 83-119)

Bonds

Approval and discontinuance of consolidated aircraft bonds (air carrier blanket bonds), Customs Form 7605

The following consolidated aircraft bonds have been approved or iscontinued as shown below. The symbol "D" indicates that the ond previously outstanding has been discontinued on the month, ay, and year represented by the figures which follow. "PB" refers o a previous bond, dated as represented by the figures in parentheses immediately following, which has been discontinued. If the preious bond was in the name of a different company or if the surety as different, the information is shown in a footnote at the end of he list.

Dated: May 18, 1983.

Name of principal and surety	Date of term commences	Date of approval	Filed with district director/area director/amount
ople Express Airlines, Inc., North Terminal, Newark International Airport, Newark, NJ; American Motorists Ins. Co. e foregoing principal has been designated as a carrier of bonded merchandise.	May 6, 1983	May 9, 1983	New York Seaport $100,000
uth Pacific Island Airways, Inc. P.O. Box 31263, Honolulu, HI; Washington International Ins. Co. e foregoing principal has been designated as a carrier of bonded merchandise.	Apr. 15, 1983	Apr. 18, 1983	Honolulu, HI $100,000

BON-3-01

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-120)

Reimbursable Services—Excess Cost of Preclearance Operations

DEPARTMENT OF THE TREASURY
Office of the Commissioner of Customs,
Washington, D.C., May 19, 1983.

Notice is hereby given that pursuant to Section 24.18(d), Customs Regulations (19 CFR 24,18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning May 29, 1983.

Installation	Biweekly excess cost
Montreal, Canada	$20,989
Toronto, Canada	38,671
Kindley Field, Bermuda	7,667
Nassau, Bahama Islands	14,069
Vancouver, Canada	14,163
Winnipeg, Canada	2,556
Freeport, Bahama Islands	8,955
Calgary, Canada	9,436
Edmonton, Canada	3,440

WILLIAM H. RUSSELL,
Comptroller.

[Published in the Federal Register, May 25, 1983 (48 FR 23513)]

(T.D. 83-121)

Fish—Tariff-Rate Quota

Tariff-rate quota for the calendar year 1983, on fish dutiable under item 110.50, Tariff Schedules of the United States (TSUS)

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Announcement of the quota quantity on certain fish for calendar year 1983.

SUMMARY: The tariff-rate quota for fish pursuant to item 110.50, TSUS, for the 1983 calendar year is 49,488,851 pounds.

EFFECTIVE DATES: The 1983 tariff-rate quota is applicable to fish described in item 110.50, TSUS, which are entered, or withdrawn from warehouse, for consumption during calendar year 1983.

FOR FURTHER INFORMATION CONTACT: William D. Slyne, Chief, Special Operations Branch, Duty Assessment Division, U.S. Customs Service, Washington, D.C. 20229 (202-566-2957).

SUPPLEMENTARY INFORMATION: This tariff-rate quota for fish is equal to 15 percent of the average aggregate apparent annual consumption in the United States of fish, fresh, chilled or frozen, fillets, steaks, and sticks, of cod, cusk, haddock, hake, pollock, and rosefish, for the 3 preceding years, as provided for in headnote 1, part 3A, Schedule 1, and item 110.50 TSUS.

It has been determined that the average aggregate consumption for calendar year 1980 through 1982 was 329,925,674 pounds. Therefore, the quota quantity of fish, item 110.50, TSUS, for calendar year 1983 is 49,488,851 pounds.

(QUO-2-CO:T:D:SO)

Dated: May 20, 1983

EDWARD F. KWAS,
Acting Commissioner of Customs.

[Published in the Federal Register, May 25, 1983 (48 FR 23513)]

(T.D. 83-122)

19 CFR Part 133

RECORDATION OF TRADE NAME: CHAMS DE BARON LTD.

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of Recordation.

SUMMARY: On March 10, 1983, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "CHAMS DE BARON LTD." was published in the Federal Register (48 FR 10188-10189). The notice advised that before final action on the application, consideration would be given to relevant data, views, or arguments submitted in opposition to the recordation and received not later than May 10, 1983. No responses were received in opposition to the notice.

Accordingly, as provided in section 133.14, Customs Regulations (19 CFR 133.14), the name "CHAMS DE BARON LTD." is recorded as the trade name used by Chams De Baron Ltd., a corporation organized under the laws of the State of New York, located at 1350

Broadway, New York, New York 10018. The trade name is used in connection with the following merchandise which is manufactured in Taiwan, Hong Kong, South Korea, and the Philippines: men's and women's wearing apparel, including shirts, tops, sweaters, jackets and pants.

DATE: May 25, 1983.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5765).

Dated: May 20, 1983.

A. Piazza,
Acting Director,
Entry Procedures and Penalties Division.

[Published in the Federal Register, May 25, 1983 (48 FR 23513)]

(T.D. 83-123)

Drawback Contract—Relative Values (19 U.S.C. 1313(a))

Background

The drawback law (19 U.S.C. 1313(a)) requires that "drawback shall be distributed to the several products in accordance with their relative values at the time of separation" when two or more products necessarily are produced concurrently in the same operation. The purpose is to prevent an overpayment of drawback when the claimant elects to keep the valuable product in this country and export the lesser valued product(s) for drawback. Thus, values for all by-products must be established at the time of separation during the manufacturing process. Drawback is allowed upon the exportation of by-products but is not allowed for waste.

An example of a by-product situation is the process of crushing linseed which produces concurrently in the same operation two different articles of commerce, linseed oil and linseed cake. A non-by-product situation would be the election by a manufacturer to use one-half of a shipment of aluminum to make gutters and the other half to make kitchen utensils.

The purpose of this document is to provide a general drawback contract to cover situations involving relative values and by-products for direct identification drawback.

Requisites for General Contract

Any person who can comply with the conditions of the contract which follows may, with the agreement of the Regional Commissioner, adhere to it by notifying him in writing of its intention to do so and providing him with the following information:

1. Name and address of the manufacturer (or producer);
2. List of imported merchandise or drawback products used in manufacturing;
3. List of products and by-products manufactured in the same operation;
4. Factories which will operate under the contract; and,
5. If the manufacturer is a corporation, the names of officers or persons with power of attorney who will sign drawback documents on behalf of adherent.

Dated: May 23, 1983.

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

GENERAL CONTRACT UNDER 19 U.S.C. 1313(a)

For By-Product Situations

Imported Merchandise or Drawback Products Used

Imported merchandise (or drawback products) is used in the manufacture of the exported articles upon which drawback claims will be based.

Exported Articles on Which Drawback Will Be Claimed

Exported articles on which drawback will be claimed will be manufactured in the United States using imported merchandise or drawback products.

Process of Manufacture and By-Products

The imported merchandise or drawback products will be used to manufacture new and different articles having distinctive names, characters, and/or uses.

The manufacturing process under this contract produces in the same operation the principal product and one or more by-products.

Relative Values

The records maintained to support drawback shall include the market value of each product or by-product at the time it is first separated in the manufacturing process.

Loss or Gain

Some manufacturing processes result in an intangible loss or gain in net weight or measurement of the imported merchandise caused by atmospheric conditions, chemical reactions, or other factors. If applicable, we agree to keep records showing the loss or gain.

Stock In Process

Some manufacturing processes are stopped with imported materials in the apparatus at the time of the stoppage, and some processes result in residue materials which are reintroduced in the manufacturing process. These materials, called stock in process, reduce the quantity of imported merchandise used to manufacture the products. If applicable, records shall be maintained to show the quantity of stock in process.

Waste

Drawback is not payable on any waste from the manufacturing process. We will keep records to show the value, the quantity, and the disposition of any waste that results from the manufacturing process.

Procedures and Records Maintained

We shall maintain records to establish:

1. That the exported articles on which drawback is claimed were manufactured or produced with the use of the imported merchandise or drawback products;
2. The quantity of the imported merchandise or drawback products used in manufacturing the exported articles; and,
3. That the completed articles were exported within five years after importation of the imported merchandise.

Inventory Procedures

Our inventory procedures will show how we will satisfy the legal requirements discussed under the heading *Procedures and Records Maintained*. We understand that if our records do not show that we satisfy those requirements, drawback cannot be paid.

Basis of Claim for Drawback

The claims for drawback will be based on the quantity of imported merchandise or drawback products *Used In* the manufacture of the exported products with the market value of each product and by-product determined at the time it is first separated in the manufacturing process.

When valuable waste is recovered in the manufacturing process, the claims for drawback will be based on the quantity of the merchandise used to produce the products for export, less the amount of such material which the value of the waste would replace.

Agreements

We specifically agree that we will:

1. Comply fully with the terms of this statement when claiming drawback;
2. Open our factory and records for examination at all reasonable hours by authorized Government officers;

3. Keep our drawback related records and supporting data for at least 3 years from the date of payment of any drawback claim predicated in whole or in part upon this statement;

4. Keep this statement current by reporting promptly to the regional commissioner who liquidates the claims any changes in the number or location of our offices or factories, the corporate name, or the corporate organization by succession or reincorporation;

5. Keep a copy of this statement on file for ready reference by employees and require officials and employees concerned to familiarize themselves with the provisions of this statement; and,

6. Issue instructions to ensure proper compliance with title 19, United States Code, section 1313(a) and (i), part 22 of the Customs Regulations, and this statement.

(T.D. 83-124)

Synopses of Drawback Decisions

The following are synopses of drawback rates issued October 5, 1977, to December 17, 1982, inclusive, pursuant to sections 22.1 through 22.5, inclusive, Customs Regulations; and an approval under section 22.6, Customs Regulations.

In the synopses below are listed for each drawback rate approved under 19 U.S.C. 1313(b), the name of the company, the specified articles on which drawback is authorized, the merchandise which will be used to manufacture or produce these articles, the factories where the work will be accomplished, the date the statement was signed, the basis for determining payment, the Regional Commissioner to whom the rate was forwarded or issued by, and the date on which it was forwarded or issued.

Dated: May 20, 1983.

File: 215898

GEORGE C. STEUART
(For Marilyn G. Morrison,
Director, Carriers, Drawback and Bonds Division.)

(A) Company: Burlington Industries, Inc.

Articles: Greige or dyed wool piece goods; greige or dyed wool worsted piece goods; blended greige or dyed wool and synthetic piece goods; blended greige or dyed wool worsted and synthetic piece goods.

Merchandise: Undyed and dyed wool yarn; undyed and dyed wool worsted yarn; undyed and dyed blended wool and synthetic yarn; undyed and dyed blended wool worsted and synthetic yarn.

Factories: Raeford, Oxford, Forest City, Franklinton, and Fayetteville, NC; Clarksville and Halifax, VA; Johnson City, TN; Bishopville, SC; Shannon, GA.

Statement signed: July 26, 1982.
Basis of claim: Appearing in.
Rate forwarded to RC, Boston (Baltimore Liquidation) and New York: November 9, 1982.

(B) Company: Burlington Industries, Inc.
Articles: Grease wool sorted and/or graded; wool matchings; scoured, carded, combed, wool top; cut top; noils; doffer/blousettes; cardfly; burr; axiflo; and clean reworkable.
Merchandise: Wool in the grease or washed.
Factory: Clarksville, VA.
Statement signed: September 14, 1982.
Basis of claim: Used in, with distribution to the products obtained, in accordance with their relative value at the time of separation.
Rate forwarded to RC, Boston (Baltimore Liquidation): December 3, 1982.
Revokes: T.D.'s 73-88-EE, 73-88-DD, and 76-159-P.

(C) Company: Cargill Citro America, Inc.
Articles: Orange juice from concentrate, frozen concentrated orange juice, and bulk concentrated orange juice.
Merchandise: Concentrated orange juice for manufacturing.
Factories: Agents operating under T.D. 81-181 and T.D.'s 55207(1) and 55027(2).
Statement signed: September 11, 1981.
Basis of claim: Used in.
Rate forwarded to RC, Miami: December 17, 1982.

(D) Company: Caulkins Indiantown Citrus Co.
Articles: Frozen concentrated orange juice and orange juice drink base.
Merchandise: Concentrated orange juice for manufacturing.
Factory: Indiantown, FL.
Statement signed: September 9, 1982.
Basis of claim: Used in.
Rate forwarded to RC, Miama: November 19, 1982.
Revokes: T.D. 81-78-D.

(E) Company: Custom Extrusion, Inc.
Articles: Fluorescent light fixture diffusers.
Merchandise: Clear acrylic polymer.
Factory: Sheffield, MA.
Statement signed: June 8, 1982.
Basis of claim: Used in.
Rate issued by RC in accordance with section 22.4(o)(2): New York, July 22, 1982.
Revokes: T.D. 69-240-K.

(F) Company: Daelco, Inc.

Articles: Lead oxide.
Merchandise: Corroding lead.
Factories: City of Commerce, CA; Beaverton, OR.
Statement signed: July 16, 1982.
Basis of claim: Used in.
Rate forwarded to RC, Los Angeles: November 12, 1982.

(G) Company: Florida Citrus Groves Corp.
Articles: Orange juice from concentrate, frozen concentrated orange juice, bulk concentrated orange juice, grapefruit juice from concentrate, frozen concentrated grapefruit juice, and blended orange and grapefruit juice.
Merchandise: Concentrated orange juice for manufacturing and concentrated grapefruit juice for manufacturing.
Factory: Altamonte Springs, FL.
Statement signed: July 9, 1981.
Basis of claim: Used in.
Rate forwarded to RC, Miami, November 22, 1982.

(H) Company: General Electric Co.
Articles: Polyphenylene oxide, in powder form.
Merchandise: Methanol; phenol.
Factories: Selkirk, NY; Pittsfield, MA.
Statement signed: September 16, 1977.
Basis of claim: Used in, with distribution to the products obtained in accordance with their relative values at the time of separation.
Rate forwarded to RC, New York: October 5, 1977.

(I) Company: B. F. Goodrich Co.
Articles: Polymer chemicals and elastomers.
Merchandise: Diisobutylene.
Factories: Akron and Avon Lake, OH; Henry, IL; Louisville, KY; Port Neches, TX.
Statement signed: July 12, 1982.
Basis of claim: Appearing in.
Rate forwarded to RC, Boston (Baltimore Liquidation): November 26, 1982.

(J) Company: Gulf States Manufacturers, Inc.
Articles: Structural steel components, sheet metal flashing, formed sheet metal panels for exterior walls and accessories.
Merchandise: Steel sheet and plate, bolts, nuts, and washers.
Factory: Starkville, MS.
Statement signed: July 12, 1982.
Basis of claim: Appearing in.
Rate forwarded to RC, New Orleans: December 3, 1982.

(K) Company: H. P. Hood Inc.

Articles: Orange juice from concentrate, frozen concentrated orange juice, bulk concentrated orange juice.
Merchandise: Concentrated orange juice for manufacturing.
Factory: Dunedin, FL.
Statement signed: January 28, 1982.
Basis of claim: Used in.
Rate forwarded to RC, Miami: November 19, 1982.
Revokes: T.D. 73-324-N.

(L) Company: Houdaille Industries, Inc., Penberthy Div.
Articles: Liquid level gages and sight flow indicators.
Merchandise: Borosilicate reflex and transparent gage glass and borosilicate laminated glass lenses.
Factory: Prophetstown, IL.
Statement signed: June 25, 1982.
Basis of claim: Appearing in.
Rate forwarded to RC, Chicago: December 13, 1982.

(M) Company: Keebler Co.
Articles: Cookies, crackers, ice cream cones, crumb base pie crust, pretzels, toaster pastries, cereal, and other snack foods.
Merchandise: Refined coconut oil manufactured with the use of imported crude coconut oil and peanut oil.
Factories: Various factories as listed in manufacturer's statement.
Statement signed: September 21, 1982.
Basis of claim: Appearing in.
Rate forwarded to RCs, Los Angeles (San Francisco Liquidation) and Chicago: December 17, 1982.
Revokes: T.D. 68-248-E.

(N) Company: Lawrence Aviation Industries, Inc.
Articles: Aviation grade titanium sheet.
Merchandise: Titanium sponge, titanium slab and titanium sheet bar.
Factory: Port Jefferson Station, NY
Statement signed: November 2, 1982.
Basis of claim: Appearing in.
Rate forwarded to RC, New York: December 13, 1982.

(O) Company: Litton Business Systems, Inc., Fitchburg Paper Co. Div.
Articles: Paper.
Merchandise: Laminating grade rutile titanium dioxide.
Factory: Fitchburg, MA.
Statement signed: November 9, 1982.
Basis of claim: Used in.
Rate forwarded to RC, Boston: December 2, 1982.

(P) Company: Manning Fabrics Inc., AKA The Manning Corp.

Articles: Combined upper materials for footwear, 100 percent cotton.
Merchandise: Greige goods (cotton duck, drill, and sateen).
Factory: St. Pauls, NC.
Statement signed: November 24, 1982.
Basis of claim: Used in.
Rate forwarded to RC, Miami: December 7, 1982.
Revokes: T.D. 78-94-R.

(Q) Company: Mauna Loa Macadamia Nut Corp.
Articles: Roasted and salted macadamia nuts; macadamia nut confections, cookies, and cakes; and roasted unsalted macadamia nuts.
Merchandise: Raw macadamia nuts.
Factory: Puna District, County of Hawaii, Hawaii.
Statement signed: November 24, 1982.
Basis of claim: Used in.
Rate forwarded to RCs, Los Angeles (San Francisco Liquidation) and New Orleans: December 17, 1982.

(R) Company: Nibco Inc.
Articles: Various copper fittings, including but not limited to connectors, bushings, couplings, etc.
Merchandise: Copper ingots, bars, and sheets.
Factories: Various factories as listed in manufacturer's statement.
Statement signed: December 1, 1982.
Basis of claim: Appearing in.
Rate forwarded to RC, Chicago: December 17, 1982.

(S) Company: Pellerin Milnor Corp.
Articles: Milnor commercial laundry washer extractors.
Merchandise: Washer extractor parts.
Factory: Kenner, LA.
Statement signed: August 2, 1982.
Basis of claim: Appearing in.
Rate forwarded to RC, New Orleans: November 12, 1982.
Revokes: T.D. 77-192-U.

(T) Company: Pepsi-Cola & National Brand Beverages Ltd.
Articles: Canned and bottled carbonated and non-carbonated beverages.
Merchandise: Hard and liquid refined sugar, and liquid refined invert sugar.
Factories: Paterson and Pennsauken, NJ.
Statement signed: July 1, 1982.
Basis of claim: Used in.
Rate issued by RC in accordance with section 22.4(o)(2): New York, August 12, 1982.
Revokes: T.D. 79-230-P.

(U) Company: Polychrome Corp.
Articles: Presensitized lithographic printing plates.
Merchandise: Aluminum litho sheet/foil in coil.
Factory: Yonkers, NY.
Statement signed: August 31, 1982.
Basis of claim: Appearing in.
Rate forwarded to RC, New York: November 19, 1982.

(V) Company: Raymond International Builders, Inc.
Articles: Corrugated piling shells and other steel products for us in construction work.
Merchandise: Steel.
Factory: Baltimore, MD.
Statement signed: November 17, 1980.
Basis of claim: Appearing in.
Rate issued by RC in accordance with section 22.4(o)(2): New York March 31, 1982.
Revokes: T.D. 56255-G as amended 72-282-J and 76-300-S to cover a change in name of company from Raymond International Inc., to Raymond International Builders, Inc.

(W) Company: Rheem Manufacturing Co.
Articles: Various refrigeration systems; air-conditioners; heat pumps; and associated equipment.
Merchandise: Aluminum sheet, foil; aluminum ingot, unalloyed; copper tubing; copper cathodes; polyethylene resins.
Factories: Various factories as listed in manufacturer's statement.
Statement signed: July 26, 1982.
Basis of claim: Appearing in.
Rate forwarded to RC, New York: November 30, 1982.

(X) Company: The Seven-Up Co.
Articles: Processed lemon oil No. 3280.
Merchandise: Lemon oil.
Factory: St. Louis, MO.
Statement signed: August 31, 1982.
Basis of claim: Appearing in.
Rate forwarded to RC, Chicago: November 24, 1982.

(Y) Company: Southern Fruit Distributors, Inc.
Articles: Orange juice from concentrate, frozen concentrated orange juice, and bulk concentrated orange juice.
Merchandise: Concentrated orange juice for manufacturing.
Factory: Orlando, FL.
Statement signed: August 3, 1981.
Basis of claim: Used in.
Rate forwarded to RC, Miami: December 15, 1982.
Revokes: T.D. 80-245-W.

(Z) Company: Texture-Tex, Inc.
Articles: Plied nylon yarn.
Merchandise: Single ply filament nylon yarn.
Factories: Valdosta and Dalton, GA.
Statement signed: July 26, 1982.
Basis of claim: Used in, less valuable waste.
Rate forwarded to RC, Miami: December 7, 1982.

Approval Under Section 22.6, Customs Regulations

(1) Company: Phillips Petroleum Co.
Articles: Petroleum products.
Merchandise: Crude petroleum or petroleum derivatives.
Statement signed: April 28, 1982.
Basis of claim: As provided in the drawback contract contained in section 22.6(g-1) of the Customs Regulations.
Factories: Borger, Houston, Sweeny and Orange, TX; Kansas City, KS; Woods Cross, UT.
Rate forwarded to RC, Chicago: July 30, 1982.
Revokes: T.D. 81-91-T.

(T.D. 83-125)

Realignment of Customs Service Field Organization

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General Notice.

SUMMARY: This document advises the public that the regional structure of the Customs Service is being realigned.

The Norfolk, Virginia, and Washington, D.C. Customs Districts, will become part of the Southeast Region; the Nogales, Arizona, Customs District will become part of the Southwest Region; and the Great Falls, Montana, Customs District will become part of the North Central Region. Also, the boundaries of the Great Falls, Montana, Customs District will be redefined to include the States of Utah, formerly part of the San Francisco, California, Customs District, and Colorado, formerly part of the El Paso, Texas, Customs District.

There administrative changes are being made as part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

EFFECTIVE DATE: July 6, 1983.

FOR FURTHER INFORMATION CONTACT: C. Wayne Hamilton, Budget Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5187).

SUPPLEMENTARY INFORMATION:

BACKGROUND

By Treasury Department Order No. 165-24, published in the Federal Register as T.D. 82-118 on June 25, 1982 (47 FR 27655), effective September 30, 1982, the regional management structure of the U.S. Customs Service was reorganized from nine to seven regions. With the completion of the regional consolidation and as part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, the regional structure of the Customs Service is being realigned.

The Great Falls, Montana, and Nogales, Arizona, Customs Districts, which are currently part of the Pacific Region, are being transferred to the North Central and Southwest Regions, respectively. In addition, the Norfolk, Virginia, and Washington, D.C., Customs Districts are being transferred from the Northeast Region to the Southeast Region. Finally, the boundaries of the Great Falls, Montana, Customs District are being redefined to include the State of Utah, now part of the San Francisco, California, Customs District, and the State of Colorado, now part of the El Paso, Texas, Customs District. This transfer will also alter regional boundaries because Utah, currently in the Pacific Region, and Colorado, currently in the Southwest Region, are being transferred to the North Central Region.

This realignment is in keeping with the President's program for reducing burdens on taxpayers and increasing productivity. There will be no adverse operational impact on the importing community or the traveling public and the changes will result in a more equitable distribution of workload throughout Customs.

Appropriate changes to the list of Customs regions, districts, and ports of entry, set forth in section 101.3(b), Customs Regulations (19 CFR 101.3(b)), will be made in a future document to be published in the Federal Register.

EXECUTIVE ORDER 12291

Because this is a general notice which relates to the organization of Customs, it is not a regulation or rule subject to Executive Order 12291.

REGULATORY FLEXIBILITY ACT

This notice is not subject to the provisions of Pub. L. 96-354, the Regulatory Flexibility Act (5 U.S.C. 601-612) because that Act does not apply to a document such as this for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), or any other law.

DRAFTING INFORMATION

The principal author of this document was James S. Demb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

ALFRED R. DE ANGELUS,
Acting Commissioner of Customs.

Approved: March 7, 1983.
JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, June 6, 1983 (48 FR 25180)]

(T.D. 83-126)

Guidelines for the Disposition of Merchandise Samples Submitted in Connection with Ruling Requests

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General Notice.

SUMMARY: This document provides guidelines for the handling and disposition of merchandise samples submitted in connection with requests made to Customs for rulings that interpret and apply provisions of the Customs and related laws to a specific set of facts. These guidelines are being adopted as part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public. These guidelines provide pertinent information that is appropriate and helpful to persons submitting samples to Customs in connection with ruling requests.

EFFECTIVE DATE: June 6, 1983.

FOR FURTHER INFORMATION CONTACT: John T. Roth, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5868).

SUPPLEMENTARY INFORMATION:

BACKGROUND

In response to the growing need for a formal procedure to govern the disposition of merchandise samples received in connection with requests for administrative rulings under Part 177 of the Customs Regulations (19 CFR Part 177), Customs has provided guidelines for the handling and disposition of these samples. Certain of the guidelines relate to the return of samples to the submitting parties. Adoption of these guidelines reflects Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public.

NOTICE OF GUIDELINES

In general and except as hereinafter provided, the guidelines provide for the return of the sample to the submitting party provided such return is requested in writing within 90 days of the date of issuance of the ruling to which the sample relates (or in the event no ruling can be issued, within 90 days of the date of notice of that fact). In certain cases, Customs may request permission to retain a sample for reference purposes. If such permission is granted, and the return of the sample was requested by the submitting party, the sample will be returned when no longer needed by Customs.

The request for the return of a sample should be made at the time the sample is furnished to Customs, but must be received not later than 90 days after the date of issuance of the ruling or decision to which the sample relates (or 90 days after the date of notice that no ruling can be issued). The request should be made to the same office from which the ruling or decision was requested or, in the case of requests made after the issuance of the ruling or decision, to the office which issued that ruling or decision.

In the interests of simplicity and practicality and as a service to parties requesting administrative rulings, Customs will, upon request, package and return by mail any mailable sample. Such parcels will not be mailed insured and Customs will assume no responsibility for breakage, damage, or other loss with respect to samples returned by mail. Similarly, parties submitting samples are advised that any sample submitted may be altered, damaged, or consumed in the course of examination, testing, or analysis by Customs. Customs assumes no responsibility for such change, damage, or loss, or for loss or damage of any kind whatsoever, unless Customs has specifically assumed such liability in writing. Parties submitting samples which cannot be returned by mail, however, are responsible for arranging for the return of such samples (if such return is desired).

As of (June 6, 1983), Customs will have many samples on hand which relate to rulings or decisions issued on or before this date. Any party submitting a sample with respect to a ruling or decision which was issued by Customs during the period July 1, 1982, through (June 6, 1983) who desires the return of the same (provided the sample has not already been returned), may request such return from the office which issued the ruling or decision. The request must be made in writing on or before (Sept. 6, 1983). Parties submitting samples in connection with rulings or decisions issued after (June 6, 1983) will have 90 days from the date of the ruling or decision to request, in writing, the return of their samples.

Except as hereinabove provided, samples which are not retained for reference purposes by Customs or requested to be returned to the submitting party within 90 days of the date of issuance of the ruling or decision to which they relate, will be destroyed or otherwise disposed of by Customs in accordance with applicable law and regulations.

The new guidelines will be applied by Customs to requests for rulings received on and after (June 6, 1983). Copies of the guidelines or further information with respect to the return of specific samples will be available on or after that date to persons submitting samples. Inquiries should be directed to the office to which the sample was submitted.

INAPPLICABILITY OF BOTH THE DELAYED EFFECTIVE DATE PROVISION AND THE SOLICITATION OF COMMENTS

This document provides guidelines concerning Customs procedures and is designed to promote efficient use of personnel, facilities, and resources. Accordingly, pursuant to 5 U.S.C. 553(b) and (d)(3), no notice of proposed rulemaking and solicitation of comments is required and good cause is found for dispensing with the delayed effective date for adoption of the new guidelines for the handling and disposing of merchandise samples submitted in connection with ruling requests.

LIST OF SUBJECTS IN 19 CFR PART 177

Customs duties and inspection, Imports, Administrative practice and procedure.

EXECUTIVE ORDER 12291

Because this will not result in a "major rule" as defined in section 1(b) of E.O. 12291, the regulatory impact analysis and review prescribed by section 3 of E.O. is not required.

REGULATORY FLEXIBILITY ACT

The regulatory flexibility analysis requirements under the provisions of sections 603 and 604 of title 5, United States Code (as added by section 3 of Pub. L. 96-354, the "Regulatory Flexibility Act") are not applicable to this document because there is no requirement to publish a notice of proposed rulemaking under the provisions of section 553, 5 U.S.C. 553.

DRAFTING INFORMATION

The principal author of this document was James S. Demb, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

ALFRED R. DE ANGELUS,
Acting Commissioner of Customs.

Approved: May 16, 1983.
JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, June 6, 1983 (48 FR 25180)]

(T.D. 83-127)

Bonds

Approval and discontinuance of Carrier's Bonds, Customs Form 3587

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: June 6, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Aero Mayflower Transit Co., Inc., 9998 North Michigan Rd., P.O. Box 107B, Indianapolis, IN; motor carrier; The Aetna Casualty & Surety Co. (PB 4/30/81) D 5/17/83 [1]	Apr. 30, 1983	May 17, 1983	Cleveland, OH $100,000
All Time Transport Corp., Bldg. 2140, Door N-8, Hialeah, FL; motor carrier; Allied Fidelity Ins. Co. D 4/17/83	May 24, 1982	June 7, 1982	Miami, FL $50,000
Astro Air Express, Inc., 2550 Lunt Ave., Elk Grove Village, IL; air freight forwarder; Continental Ins. Co.	May 3, 1983	May 11, 1983	Chicago, IL $50,000
Barnes Freight Line, Inc., P.O. Box 800, Bankhead Ave., Carrollton, GA; motor carrier; Liberty Mutual Ins. Co. D 5/6/83	Feb. 15, 1979	May 7, 1979	Mobile, AL $25,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Branch Motor Express Co., 114 Fifth Ave. New York, NY; motor carrier; Old Republic Ins. Co. (PB 5/11/82) D 1/10/83 [2]	Jan. 10, 1983	Jan. 10, 1983	New York Seaport $200,000
Brooks Transportation Inc., 3830 Kelley Ave., Cleveland, OH; motor carrier; Ins. Co. of North America D 5/20/83	Dec. 26, 1979	Dec. 27, 1979	Cleveland, OH $50,000
Coble Express, Inc., P.O. Box 1104, Fesslers Lane, Nashville, TN; motor carrier; Safeco Ins. Co. of America (PB 3/5/82) D 5/9/83 [3]	Apr. 8, 1983	May 9, 1983	New Orleans, LA $25,000
Colonial Trucking, Inc., 70 Western Ave., Allston, MA; motor carrier; Commercial Union Ins. Co.	Mar. 14, 1983	May 6, 1983	Boston, MA $50,000
Commercial Freight Carriers, Inc., P.O. Box 160066, 6600 Theodore Dawes & I-10, Mobile, AL; motor carrier; Peerless Ins. Co.	May 12, 1983	May 13, 1983	Mobile, AL $25,000
Cumberland Trucking Co., Inc., 2550 Lunt Ave., Elk Grove Village, IL; motor carrier; Continental Ins. Co.	May 3, 1983	May 9, 1983	Chicago, IL $50,000
Diablo Express, Inc., P.O. Box 2366, 342 Allerton Ave., South San Francisco, CA; motor carrier; U.S. Fidelity & Guaranty Co.	Mar. 22, 1983	May 16, 1983	San Francisco, CA $25,000
Diamond Crystal Salt Co./DC Transport Inc., 916 S. Riverside, St. Clair, MI; motor carrier; Old Republic Ins. Co	May 13, 1983	May 16, 1983	Detroit, MI $50,000
Garlepied Transfer, Inc., P.O. Box 10624, Jefferson, LA; motor carrier; Washington International Ins. Co.	May 10, 1983	May 12, 1983	New Orleans, LA $25,000
Humberto Mercader-Diaz, Inc., No. 6 Turquesa St., Vista Verde, Mayaguez, PR; motor carrier; Puerto Rican-American Ins. Co.	Mar. 3, 1983	May 3, 1983	San Juan, PR $50,000
Inter-Continental Services, Inc., 925 Common St., Suite 700, New Orleans, LA; motor carrier; National Union Fire Ins. Co. of Pittsburgh, PA	Mar. 14, 1983	May 17, 1983	New Orleans, LA $25,000
Interstate Cartage Co., Inc., 550 Donaldson Center, Greenville, SC; motor carrier; Ins. Co. of North America	Feb. 23, 1983	May 6, 1983	Charleston, SC $50,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Jay Jay Forwarding Service, Inc., 165 Milk St., Boston, MA; motor carrier; The Continental Ins. Co. (PB 5/14/73) D 5/14/83 [4]	May 14, 1983	May 17, 1983	Boston, MA $25,000
Kingsway Freightlines Ltd., 212 24th St., N.E., Calgary, Alberta, Canada; motor carrier; Fireman's Fund Ins. Co. (PB 4/1/70) D 5/5/83 [5]	Apr. 5, 1983	May 6, 1983	Great Falls, MT $25,000
Ness Feed & Trucking Enterprises Inc., 5 Mill Rd., Howick, Quebec, Canada; motor carrier; The Hanover Ins. Co.	May 17, 1983	May 19, 1983	St. Albans, VT $25,000
Quick Delivery Service, Inc., 216 N. Belt Line Hwy., Mobile, AL; motor carrier; St. Paul Fire & Marine Ins. Co. (PB 4/14/81) D 5/11/83 [6]	May 11, 1983	May 12, 1983	Mobile, AL $25,000
Roads West Transportation, Inc., P.O. Box 24097, Phoenix, AZ; motor carrier; American Druggists' Ins. Co.	Apr. 28, 1983	May 12, 1983	Nogales, AZ $25,000
Rochester Air Freight Service Corp., 73 Deep Rock Rd., Rochester, NY; air carrier; Washington International Ins. Co. D 6/3/83	Dec. 29, 1982	Dec. 29, 1982	Buffalo, NY $25,000
Seacoast Transportation Co., 500 Water St., Jacksonville, FL; motor carrier; Safeco Ins. Co. of America (PB 5/12/72) D 5/12/83 [7]	May 12, 1983	May 12, 1983	Tampa, FL $50,000
J. H. Stewart and Son Trucking, Inc., 735 Laidlaw Ave., Cincinnati, OH; motor carrier; The Ohio Casualty Ins. Co.	May 16, 1983	May 20, 1983	Cleveland, OH $75,000
Sun Security Ltd., 2315 Royal St., New Orleans, LA; motor carrier; The Continental Ins. Co.	May 10, 1983	May 17, 1983	New Orleans, LA $25,000
Thames Valley Trucking Inc., P.O. Box 190, Parkhill, Ontario, Canada; motor carrier; Hartford Fire Ins. Co. D 5/12/83	Jan. 30, 1981	July 27, 1981	Detroit, MI $50,000
Trails Trucking Inc., De La Cruz, Suite 11, Santa Clara, CA; motor carrier; Continental Ins. Co.	Apr. 27, 1983	May 17, 1983	Mobile, AL $25,000

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[1] Surety is Hartford Accident & Indemnity Co.

[2] Surety is The Aetna Casualty & Surety Co.

[3] Surety is American Ins. Co.

[4] Principal is John J. Minutoli, dba: Jay Jay Forwarding Service; Surety is Hartford Accident & Indemnity Co.

[5] Surety is The Continental Ins. Co.

[6] Surety is Safeco Ins. Co. of America.

[7] Surety is Federal Ins. Co.

BON-3-03

GEORGE C. STEUART
(For Marilyn G. Morrison, Director,
Carriers, Drawback & Bonds Division).

(T.D. 83-128)

Bonds

Approval and discontinuance of bonds on Customs Form 7587 for the control of Instruments of International Traffic of a kind specified in section 10.41a of the Customs Regulations

Bonds on Customs Form 7587 for the control of instruments of international traffic of a kind specified in section 10.41a of the Customs Regulations have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: June 8, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Aerospatiale Helicopter Corp., 2701 Forum Drive, Grand Prairie, TX; Washington International Ins. Co. (PB 5/7/81) D 5/5/83	May 7, 1981	May 14, 1981	New York Seaport $10,000
American Maritime Co., Suite 902, Public Ledger, Bldg., 6th & Chestnut Sts., Philadelphia, PA; Ins. Co. of North America.	Sept. 17, 1982	Sept. 17, 1982	Savannah, GA $10,000
Autoliners, Inc., 100 E. 42nd St., 16th Floor, New York, NY; Washington International Ins. Co.	May 11, 1983	May 13, 1983	Balt., MD $10,000
Brostrom Shipping Co., Inc., 636 Fifth Ave., New York, NY; American Motorists Ins. Co.	May 3, 1983	May 9, 1983	New York Seaport $20,000
Canadian Transport Co., Ltd., 1075 W. Georgia Vancouver, B.C., Canada; Washington International Ins. Co.	Apr. 1, 1983	Apr. 21, 1983	Seattle, WA $10,000
Coastal Canvas Products Co., Inc., 6A Industry Dr., Savannah, GA; St. Paul Fire & Marine Ins. Co.	Nov. 15, 1982	Nov. 15, 1982	Savannah, GA $10,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Henry I. Daty, Inc., 122 E. 42nd St., New York, NY; St. Paul Fire & Marine Ins. Co.	Dec. 29, 1982	Dec. 29, 1982	Savannah, GA $10,000
H & A Trading Co., P.O. Box 11703, Caparra Heights Station, San Juan, PR; Seaboard Surety Co.	Apr. 26, 1983	May 2, 1983	San Juan, PR $10,000
Kanematsu-Gosho (USA) Inc., One World Trade Center, New York, NY; St. Paul Fire & Marine Ins. Co. (PB 4/5/77) D 4/29/83	Apr. 1, 1983	Apr. 11, 1983	Savannah, GA $10,000
Leffler & Malmros Inc., 636 Fifth Ave., New York, NY; Federal Ins. Co. D 5/3/83	Feb. 14, 1975	Feb. 14, 1975	New York Seaport $10,000
Logan Steamship Agency Inc., 250 N. Water St., P.O. Box 2881, Mobile, AL; St. Paul Fire & Marine Ins. Co. D 5/10/83	Apr. 9, 1980	Apr. 10, 1980	Mobile, AL $10,000
Emilio Antunano Garcia, dba: Manantial La Marquesa, Inc., 652 Roosevelt St., Miramar Santurce, PR; C.N.A. Casualty of PR. (PB 11/28/77) D 5/8/83 [1]	May 9, 1983	May 9, 1983	San Juan, PR $10,000
National Sea Products Ltd., Halifax, Nova Scotia, Canada; Old Republic Ins. Co.	May 5, 1983	May 9, 1983	Portland, ME $10,000
Nautilus Leasing Services, 100 California St., Suite 800, San Francisco, CA; Washington International Ins. Co.	Mar. 18, 1983	Mar. 22, 1983	San Francisco, CA $10,000
Oceans Technology Co., 559 Holmes Blvd., Gretna, LA; Old Republic Ins. Co. D 5/17/83	Apr. 6, 1981	Apr. 7, 1981	New Orleans, LA $10,000
SCAC Transport USA, Inc., 150-04 New York Blvd., Jamaica, NY; Investors Ins. Co. of America.	May 13, 1983	May 16, 1983	New York Seaport $10,000
Sherex Chemical Co., Inc., P.O. Box 646, Dublin, OH; Investors Ins. Co. of America.	May 24, 1983	May 25, 1983	New York Seaport $10,000
Southern Cross Overseas Agency Inc., 99 West Essex St., Maywood, NJ; Washington International Ins. Co.	Apr. 22, 1983	Apr. 27, 1983	New York Seaport $50,000

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[1] Principal is Emilio Antuanano, dba: Agua Mineral La Marquesa; Surety is Continental Casualty Co.

BON-3-10

GEORGE C. STEUART
(For Marilyn G. Morrison, Director,
Carriers, Drawback and Bonds Division.)

(T.D. 83-129)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to Section 22(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified uying rates for the dates and foreign currencies shown below. The ates of exchange, based on these buying rates, are published for he information and use of Customs officers and others concerned ursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, ubpart C).

Argentina peso:	
May 2-6, 1983	$0.000015
Chile peso:	
May 2-5, 1983	.013333
May 6, 1983	.013245
Colombia peso:	
May 2-5, 1983	.013245
May 6, 1983	.013172
Greece drachma:	
May 2-3, 1983	.011891
May 4-6, 1983	.011905
Indonesia rupiah:	
May 2-5, 1983	.001031
May 6, 1983	.001033
Israel shekel:	
May 2-4, 1983	.023742
May 5-6, 1983	.023430
Peru sol:	
May 2-5, 1983	.000742
May 6, 1983	.000729
South Korea won:	
May 2-6, 1983	.001304

(LIQ-03-01 S:C:I)

Dated: May 6, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-130)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to Section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
May 9–13, 1983	$0.000015
Chile peso:	
May 9–10, 1983	.013245
May 11, 1983	.013421
May 12, 1983	.013245
May 13, 1983	.013333
Colombia peso:	
May 9–10, 1983	.013172
May 11, 1983	.013189
May 12, 1983	.013172
May 13, 1983	.013127
Greece drachma:	
May 9, 1983	.011898
May 10, 1983	.011905
May 11, 1983	.011947
May 12, 1983	.011891
May 13, 1983	.011891
Indonesia rupiah:	
May 9–10, 1983	.001033
May 11, 1983	.001036
May 12, 1983	.001033
May 13, 1983	.001034
Israel shekel:	
May 9–10, 1983	.023261
May 10, 1983	.023175
May 11, 1983	.023321
May 12, 1983	.023154
May 13, 1983	.023036
Peru sol:	
May 9, 1983	.000729
May 10, 1983	.000729
May 11, 1983	.000732

May 12, 1983	.000729
May 13, 1983	.000717
South Korea won:	
May 9–13, 1983	.001304

(LIQ-03-01 S:C:I)

Dated: May 13, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-131)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to Section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
May 16–19, 1983	$0.000015
May 20, 1983	.000013
Chile peso:	
May 16–19, 1983	.013333
May 20, 1983	.013193
Colombia peso:	
May 16–19, 1983	.013127
May 20, 1983	.013057
Greece drachma:	
May 16–17, 1983	.011891
May 18, 1983	.011898
May 19, 1983	.011891
May 20, 1983	.011876
Indonesia rupiah:	
May 16–19, 1983	.001034
May 20, 1983	.001031
Israel shekel:	
May 16, 1983	.022957
May 17, 1983	.022873
May 18, 1983	.022873

May 19, 1983	.022800
May 20, 1983	.022732
Peru sol:	
May 16-19, 1983	.000717
May 20, 1983	.000704
South Korea won:	
May 16-20, 1983	.001304

(LIQ-03-01 S:C:I)

Dated: May 20, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-132)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to Section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Brazil cruzeiro:	
May 23-26, 1983	$0.002154
May 27, 1983	.002026
Hong Kong dollar:	
May 24-27, 1983	.141243
United Kingdom pound:	
May 23, 1983	1.5562
May 24, 1983	1.5677
May 25, 1983	1.5854
May 26, 1983	1.6020
May 27, 1983	1.6018
Venezeula bolivar:	
May 23-26, 1983	.098522
May 27, 1983	.098039

(LIQ-03-01 S:C:I)

Dated: May 27, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-133)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to Section 22(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified uying rates for the dates and foreign currencies shown below. The ates of exchange, based on these buying rates, are published for he information and use of Customs officers and others concerned ursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, ubpart C).

May 30, 1983 Holiday, use Rates for May 27, 1983

Argentina peso:	
May 31, 1983	$0.000013
Chile peso:	
May 31, 1983	.013072
Colombia peso:	
May 31, 1983	.012999
Greece drachma:	
May 31, 1983	.011848
Indonesia rupiah:	
May 31, 1983	.001030
Israel shekel:	
May 31, 1983	.022287
Peru sol:	
May 31, 1983	.000692
South Korea won:	
May 31, 1983	.001297

(LIQ-03-01 S:C:I)

ated: May 31, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-134)

Foreign Currencies--Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to Section 522(C), Tariff Act of 1930, as amended (31 USC 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-90 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Brazil cruzeiro:	
May 2-4, 1983	$0.002198
May 5-6, 1983	.002154
United Kingdom pound:	
May 2, 1983	1.5707
May 3, 1983	1.5782
May 4, 1983	1.5787
May 5, 1983	1.5780
May 6, 1983	1.5790
Venezuela bolivar:	
May 2-5, 1983	.099010
May 6, 1983	.090909

(LIQ-03-01 S:C:I)

Dated: May 6, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-135)

Foreign Currencies--Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to Section 522(C), Tariff Act of 1930, as amended (31 USC 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-90 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Brazil cruzeiro:	
May 9-10, 1983	$0.002154
May 11, 1983	.002165
May 12-13, 1983	.002154
Mexico peso:	
May 11, 1983	.006734
United Kingdom pound:	
May 9, 1983	1.5680
May 10, 1983	1.5645
May 11, 1983	1.5685
May 12, 1983	1.5681
May 13, 1983	1.5665
Venezuela bolivar:	
May 9-10, 1983	.090909
May 11, 1983	.095238
May 12, 1983	.099010
May 13, 1983	.100503

(LIQ-03-01 S:C:I)

Dated: May 13, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-136)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to Section 522(C), Tariff Act of 1930, as amended (31 USC 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-90 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Brazil cruzeiro:	
May 16-20, 1983	$0.002154
United Kingdom pound:	
May 16, 1983	1.5605
May 17, 1983	1.5540
May 18, 1983	1.5585
May 19, 1983	1.5562

READEX FICHE

Venezuela bolivar:	
May 16-20, 1983	.100503
May 20, 1983	.099502

(LIQ-03-01 S:C:I)

Dated: May 20, 1983.

Angela DeGaetano,
Chief,
Customs Information Exchange.

(T.D. 83-137)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to Section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
May 23-27, 1983	$0.000013
Chile peso:	
May 23-26, 1983	.013193
May 27, 1983	.013072
Colombia peso:	
May 23-26, 1983	.013057
May 27, 1983	.012999
Greece drachma:	
May 23, 1983	.011876
May 24, 1983	.011862
May 25-27, 1983	.011876
Indonesia rupiah:	
May 23-26, 1983	.001031
May 27, 1983	.001030
Israel shekel:	
May 23, 1983	.022748
May 24, 1983	.022738
May 25, 1983	.022640
May 26, 1983	.022548
May 27, 1983	.022497

Peru sol:	
May 23-26, 1983	.000704
May 27, 1983	.000692
South Korea won:	
May 23, 1983	.001300
May 24-26, 1983	.001299
May 27, 1983	.001297

(LIQ-03-01 S:C:I)

Dated: May 27, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-138)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to Section 522(C), Tariff Act of 1930, as amended (31 USC 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-90 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

May 30, 1983 Holiday, use Rates for May 27, 1983

Brazil cruzeiro:	
May 31, 1983	$0.002026
Hong Kong dollar:	
May 31, 1983	.139958
United Kingdom pound:	
May 31, 1983	1.6005
Venezuela bolivar:	
May 31, 1983	.098039

(LIQ-03-01 S:C:I)

Dated: May 31, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

19 CFR Part 146

(T.D. 83-139)

Customs Regulations Amendments Relating to the Transfer o Merchandise From a Foreign-Trade Zone to a Customs Bonded Warehouse

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to permit the transfer of zone-restricted merchandise from a foreign-trade zone to a Customs bonded warehouse pending exportation, without obtaining approval of the Foreign-Trade Zones Board, Department of Commerce. This change is being made because elimination of this unnecessary requirement will expedite the transfer process.

EFFECTIVE DATE: July 18, 1983.

FOR FURTHER INFORMATION CONTACT: Legal Aspects: William D. Lawlor, Carriers, Drawback and Bonds Division (202-566-5856); Operational Aspects: John R. Holl, Office of Cargo Enforcement and Facilitation (202-566-8151); U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Foreign-trade zones (zones) are areas within the United States (but outside of the "Customs territory" of the United States, as defined in section 146.1, Customs Regulations (10 CFR 146.1)), where foreign or domestic merchandise may be brought for manipulation, manufacture, assembly, or other processing, or for storage or exhibition, provided that these operations are not otherwise prohibited by law. Foreign merchandise may be brought into a zone without being subject to the usual Customs entry procedures and payment of duty. Foreign or domestic merchandise may be exported or entered into the Customs territory from a zone.

Zones are established under the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a-81u), and the general regulations and rules of procedure of the Foreign-Trade Zones Board (the Board), Department of Commerce (15 CFR Part 400). Part 146, Customs Regulations (19 CFR Part 146), governs the admission of merchandise into a zone; the manipulation, manufacture, or exhibition in a zone; the exportation of merchandise from a zone; and the transfer of merchandise from a zone into the Customs territory.

Articles taken into a zone from the Customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage are given "zone-restricted" status upon proper application. (Certain shipments of zone-restricted merchandise which have been placed in a zone to obtain the benefit of drawback or cancellation of a temporary importation bond are subject to footnote 3 of section 22.2, Customs Regulations (19 CFR 22.2) and T.D. 55819(11).)

Upon receiving zone-restricted status, merchandise is considered exported and may be returned to the Customs territory for domestic consumption only after the Board has determined that the transfer is in the public interest.

Because obtaining Board approval may be a time-consuming process and may result in lost sales to merchants who wish to transfer zone-restricted merchandise to a Customs bonded warehouse pending exportation, the question has arisen whether zone-restricted merchandise may be transferred to a Customs bonded warehouse pending exportation, without Board approval. While 19 U.S.C. 81c prohibits the return of merchandise to Customs territory from a zone for domestic consumption without Board approval, it does not prohibit the return of merchandise to Customs territory for warehousing prior to exportation. It is noted that section 557, Tariff Act of 1930, as amended (19 U.S.C. 1557), provides, in part, that the total period of time that merchandise may remain in a bonded warehouse shall not exceed five years from the date of importation.

Customs published a notice in the Federal Register on August 27, 1982 (47 FR 37927), proposing to amend section 146.47, Customs Regulations (19 CFR 146.47), to permit the transfer of zone-restricted merchandise from a zone to a Customs bonded warehouse pending exportation, without obtaining approval of the Board.

Discussion of Comments

Two of the three comments received in response to the notice support the change.

The third commenter opposes the change. He contends: (1) that there is no need to remove merchandise from a zone prior to actual exportation since an immediate export or a transportation and exportation movement can be arrange to take the merchandise directly from the zone to the exporting carrier without the involvement of the Board; (2) that the change creates a means of circumventing the prohibition against retail trade in a zone by allowing the merchandise to move from a zone to a warehouse, and eventually to a duty-free shop; and (3) that the change can only enhance the possibility that customs may lose complete control of zone-restricted merchandise, in view of an historic control problem with warehouse entries and immediate export and transportation for exportation bonded movements, and in view of the new warehouse procedures.

As the commenter notes, an immediate export or a transportation and exportation movement can be arranged without approval of the Board. However, commercial realities sometimes require the movement of zone-restricted merchandise to the port of exportation before there is a firm commitment with an exporting carrier. The amendment will simply permit such merchandise to be held in a bonded warehouse pending exportation. Approval of the Board will still be necessary where the goods are to be entered into the Customs territory for consumption or into a warehouse for any purpose other than exportation.

With respect to the commenter's second contention, Customs notes that there is no prohibition against retail trade in a Customs bonded warehouse operated as a duty-free shop. Merchandise sold from a duty-free shop is for export, and not for domestic consumption. Retail trade in a duty-free shop is not in derogation of the Foreign-Trade Zones Act of 1934 or the Customs Regulations.

Customs believes that the new warehouse audit/inspection approach provided for by T.D. 82-204 (see Federal Register of November 1, 1982 (47 FR 49355)), provides for adequate control over merchandise in warehouses, including zone-restricted merchandise transferred to warehouses. Pursuant to section 146.47(e)(4), Customs will maintain "paper control" over zone-restricted merchandise.

After analysis of the comments and further review of this matter, the proposal to amend section 146.47 is adopted. Language has been added to proposed section 146.47(e)(4) to provide that zone-restricted merchandise transferred from a zone to a Customs bonded warehouse may not be manipulated, except packing or unpacking incidental to exportation. Further, pursuant to 19 U.S.C. 1557, the total period of time that merchandise may remain in a Customs bonded warehouse may not exceed five years from the date of importation.

LIST OF SUBJECTS IN 19 CFR PART 146

Customs duties and inspection, Exports, Imports, Foreign-trade zones.

AMENDMENTS TO THE REGULATIONS

Part 146, Customs Regulations (19 CFR Part 146), is amended as set forth below.

PART 146—FOREIGN-TRADE ZONES

1. Section 146.47(a) is revised to read as follows: § 146.47 Transfer of zone-restricted merchandise into Customs territory.

(a) *Types of entry.* If the return of zone-restricted merchandise to Customs territory for domestic consumption has been ruled by the Board to be in the public interest, it may be entered for consumption, for warehousing, or for immediate transportation without appraisement, unless the Board has specified which of these forms of entry shall be made. Otherwise, zone-restricted merchandise may be returned to Customs territory only for entry for exportation, for Customs bonded warehousing at the same or a different port prior to exportation, for entry for transportation and exportation, for destruction (except destruction of distilled spirits, wines, and fermented malt liquors), for transfer from one zone to another, or for delivery to a qualified vessel or aircraft or as ground equipment of a qualified aircraft under section 309 or 317 of the Tariff Act of 1930, as amended.

* * * * * * *

2. Section 146.47 is further amended by adding a new paragraph (e)(4) to read as follows:

* * * * * * *

(e) * * *

(4) Zone-restricted merchandise may be transferred from a foreign-trade zone to a Customs bonded warehouse for storage pending exportation. The warehouse entry, Customs Form 7502, shall be endorsed by the district director to show that the merchandise may not be withdrawn for consumption. In the case of zone-restricted merchandise transported in bond to another port for warehousing and exportation, Customs Form 7512 shall be endorsed by the district director to show that the merchandise is foreign-trade zone merchandise in zone-restricted status, which shall be entered for warehouse, with proper endorsement on Customs Form 7502, and which may not be withdrawn for consumption. Zone-restricted merchandise transferred from a foreign-trade zone to a Customs bonded warehouse may not be manipulated, except packing or unpacking incidental to exportation. Pursuant to section 557, Tariff Act of 1930, as amended (19 U.S.C. 1557), any merchandise placed in a Customs bonded warehouse may not remain in the warehouse after five years from the date of importation and no merchandise may be placed in a Customs bonded warehouse after five years from the date of importation.

(R.S. 251, as amended; section 1, 48 Stat. 998, *et seq.*, as amended; section 624; 46 Stat. 759 (19 U.S.C. 66, 81a-81u, 1624)).

REGULATORY FLEXIBILITY ACT

Pursuant to section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is certified that the regulations set forth in the document will not have a significant economic impact on a substantial number of small entities.

EXECUTIVE ORDER 12291

Because this document does not meet the criteria for a "major rule" as defined in section 1(b) of E.O. 12291, a regulatory impact analysis as prescribed by section 3 of the E.O. is not required.

DRAFTING INFORMATION

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

ALFRED R. DE ANGELUS,
Acting Commissioner of Customs.

Approved: May 26, 1983.
JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, June 16, 1983 (48 FR 27536)]

(T.D. 83-140)

Bonds

Approval and discontinuance of Carrier's Bonds, Customs Form 3587

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: June 17, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Advance Transportation Co., 5005 S. Sixth St., P.O. Box 2011, Milwaukee, WI; motor carrier; U.S. Fidelity & Guaranty Co. (PB 3/7/68) D 5/21/83 [1]	Feb. 15, 1983	May 21, 1983	Milwaukee, WI $25,000
American Machinery Movers, Inc., 247 Iris Ave., Jefferson, LA; motor carrier; Fidelity & Deposit Co. of MD.	May 5, 1983	May 10, 1983	New Orleans, LA $25,000
B-25 Cartage Corp., P.O. Box 595090, Miami, FL; motor carrier; Old Republic Ins. Co.	Dec. 3, 1982	May 18, 1983	Miami, FL $50,000
B & P Motor Express CO., 825 W. Federal St., Youngstown, OH; Peerless Ins. Co. D 5/19/83	Feb. 12, 1982	Mar. 18, 1982	Baltimore, MD $25,000
Bender Transportation, P.O. Box 11430, 500 Evans Ave., Reno, NV; motor carrier; South Carolina Ins. Co.	Mar. 29, 1983	May 23, 1983	San Francisco, CA $50,000
Biscay Foreign Trade Warehouse, Inc., 216 N.E. 11th St., Miami, FL; motor carrier; St. Paul Fire & Marine Ins. Co. D 4/13/83	July 1, 1980	Jan. 20, 1981	Miami, Fl $50,000
Buske Lines, Inc., 123 W. Tyler, P.O. Box 349, Litchfield, ILL; motor carrier; St. Paul Fire & Marine Ins. Co. (B 5/5/80) D 6/2/83	May 5, 1983	June 2, 1983	Detroit, MI $50,000
Coastal Trailer Repairs, Inc., 3414 N.E. Vancouver Way, Portland, OR; motor carrier; Peerless Ins. Co.	Apr. 13, 1983	May 25, 1983	Portland, OR $25,000
Colonial Refrigerated Transportation, Inc., P.O. Box 22168, Knoxville, TN; motor carrier; Reliance Ins. Co.	Apr. 1, 1983	May 10, 1983	Houston, TX $25,000
Consolidated Express, Inc., Ave. Campo Rico Este, Edificio Girafa, Sabana Gardens, Ind. Park, Carolina, PR; motor carrier; Ins. Co. of North America. D 5/19/83	Feb. 1, 1971	Mar. 1, 1971	San Juan, PR $25,000
Consolidated Freightways Corp. of DE & its div., & CF Air Freight, Inc., and CF Arrowhead Services, CF Arrowhead Services, Inc., Con-Way Eastern Express, Inc., Con-Way Western Express, Inc., Con-Way Central Express, Inc., CF Forwarding, Inc., Consolidated Freightways Export-Import Services, Inc., all DE Corp., 175 Linfield Dr., Menlo Park, CA; motor carrier; Safeco Ins. Co. of America. (PB 10/6/81) D 6/6/83 [2]	Mar. 21, 1983	June 6, 1983	Portland, OR $50,000
Eazor Express, Inc., Eazor Square, Pittsburgh, PA; motor carrier; Union Indemnity Ins. Co. of NY. D 4/18/83	July 13, 1981	Oct. 8, 1981	Philadelphia, PA $100,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with distric director/area director/amount
Esteban Nazario, inc., P.O. Box 3681, Mayaquez, PR; motor carrier; Puerto Rican-American Ins. Co. D 5/19/83	Feb. 18, 1971	Mar. 3, 1971	San Juan, PR $25,000
Florida Towing Co., Suite 3206, Independence Square, Jacksonville, FL; water carrier; St. Paul Fire & Marine Ins. Co.	May 6, 1983	May 6, 1983	Charleston, SC $50,000
Hunt Super Service, Inc., Rt. 50 N., Box 270, Bradley, IL; motor carrier; The Travelers Indemnity Co.	May 17, 1983	May 23, 1983	Chicago, IL $25,000
Jonel, Inc., dba: Will-Cin Transportation Co., 350 Carlson Blvd., Richmond, CA; motor carrier; Fidelity & Deposit Co. of MD. (PB 7/17/81) D 4/25/83 [3]	Apr. 26, 1983	May 23, 1983	San Francisco, CA $25,000
Kenmore Transportation Co., 22 Eskow Rd., Worcester, MA; motor carrier; The Hanover Ins. Co. (PB 5/6/77) D 5/18/83 [4]	May 6, 1983	May 18, 1983	Boston, MA $25,000
McGregor Sea & Air Services Ltd., 1588 Gilbreth Rd., Burlingame, CA; air carrier; Washington International Ins. Co. (PB 3/17/77) D 5/10/82 [5]	Apr. 9, 1982	May 10, 1982	San Francisco, CA $100,000
Maritime-Ontario Freight Lines, Ltd., 3505 Kempt Rd., Halifax, Nova Scotia, Canada; motor carrier; U.S. Fidelity & Guaranty Co. D 5/31/83	Mar. 21, 1968	Apr. 24, 1968	Portland, ME $25,000
Mattan Transport Inc., 363 Arvin Ave., Stoney Creek, Ontario, Canada; motor carrier; Old Republic Ins. Co. D 5/20/83	Feb. 6, 1981	Feb. 9, 1981	Detroit, MI $50,000
Quaker Transit Co., Inc., 901 Poplar St., Philadelphia, PA; motor carrier; Firemen's Ins. Co. of Newark, NJ (PB 3/1/79) D 3/1/83 [6]	Mar. 1, 1983	Mar. 1, 1983	Philadelphia, PA $25,000
Redwing Refrigerated, Inc., 9831 S. Orange Ave., Taft, FL; motor carrier; The Aetna Casualty & Surety Co. D 5/19/83	Sept. 13, 1979	Nov. 20, 1979	Tampa, FL $25,000
Ric's Transfer Co., Inc., 1530 Utah Ave., So., Seattle, WA; motor carrier; Mid-Century Ins. Co. (PB 5/1/77) D 5/9/83 [7]	May 1, 1983	May 9, 1983	Seattle, WA $25,000
SEA/MAR Services, Inc., 2111 N. Pace Blvd., Pensacola, FL; motor carrier; Fidelity & Deposit Co. of MD	Apr. 21, 1983	May 20, 1983	Mobile, AL $25,000
Shaker Express, P.O. Box 2430, San Diego, CA; motor carrier; Fireman's Fund Ins. Co. (PB 8/13/82) D 5-23-83 [8]	May 6, 1983	May 23, 1983	San Diego, CA $50,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Steinbecker Brothers Inc., 1985 2nd Ave., Greeley, CO; motor carrier; Allied Fidelity Ins. Co. D 5/25/83	Feb. 15, 1982	Mar. 16, 1982	St. Louis, MO $25,000
Wall Delivery Service, Inc., 3501 Manchester Dr., Charlotte, NC; motor carrier; American Manufacturers Mutual Ins. Co.	May 26, 1983	May 31, 1983	Wilmington, NC $25,000
Will-Cin Transportation Co.—See Jonel, Inc.			
Yowell Transportation Services, Inc., 1840 Cardington Rd., Dayton, OH; motor carrier; St. Paul Fire & Marine Ins. Co. (PB 9/7/82) D 5/27/83 [9]	May 13, 1983	May 27, 1983	Cleveland, OH $50,000

[1] Surety is The Aetna Casualty & Surety Co.

[2] Principal is Consolidated Freightways Corp. of DE & its div. CF Air Freight, Inc., Corp. of DE & CF Arrowhead Services.

[3] Surety is Fireman's Fund Ins. Co.

[4] Principal is Kenmore Transportation Co., Inc.; Surety is Hartford Accident & Indemnity Co.

[5] Principal is McGregor Swire Air Services Ltd.; Surety is St. Paul Fire & Marine Ins. Co.

[6] Surety is Aetna Casualty & Surety Co.

[7] Surety is Great American Ins. Co.

[8] Surety is Transamerica Ins. Co.

[9] Surety is Mid-Century Ins. Co.

BON-3-03

George C. Steuart
(For Marilyn G. Morrison, Director,
Carriers, Drawback and Bonds Division).

(T.D. 83-141)

19 CFR Parts 10 and 177

Temporary Importations Under Bond

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Rule related notice.

SUMMARY: This document advises the public of the procedures that Customs will follow in processing requests for duty-free entry of foreign railroad equipment imported temporarily into the United States to meet an emergency. Under the Tariff Schedules of the United States, locomotives and other railroad equipment may be brought temporarily into the United States for use in transportation other than in international traffic when the Secretary of the Treasury finds that the temporary use of foreign railroad equipment is necessary to meet an emergency. There must be an administrative finding that an emergency exists and that the temporary use of foreign railroad equipment is needed to overcome that emer-

gency. This notice provides guidelines on the types of evidence tha should be presented with a request for duty-free entry. This wil enable Customs to reduce the time needed in deciding the reques and to process these requests more efficiently.

EFFECTIVE DATE: June 24, 1983.

FOR FURTHER INFORMATION CONTACT: William G. Rosoff Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5856).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Under normal conditions, foreign railroad equipment in use on a continuous route crossing the border into the United States is considered to be an item of international traffic and shall be admitted without formal entry or the payment of duty.

However, when it is deemed necessary due to an emergency situation to use foreign railroad equipment between points in the United States, it is no longer considered an item of international traffic but still can be admitted temporarily free of duty under bond in accordance with the provisions of headnote 1, Subpart C Part 5, Schedule 8, Tariff Schedules of the United States (TSUS (19 U.S.C. 1202). This headnote provides that articles described in subpart C, when not imported for sale or for sale on approval, may be admitted into the United States without the payment of duty under bond for their exportation within one (1) year from the date of importation. This period, in the discretion of the Secretary of the Treasury, may be extended, upon application, for one or more further periods which, when added to the initial one (1) year, shall not exceed a total of three (3) years. Item 864.40. of Subpart C, Part 5 Schedule 8, TSUS, provides for duty free entry for the following

> Locomotives and other railroad equipment brought temporarily into the United States for use in clearing obstructions fighting fires, or making emergency repairs on railroads within the United States, or for use in transportation otherwise than in international traffic when the Secretary of the Treasury finds that the temporary use of foreign railroad equipment is necessary to meet an emergency.

The provision which permits the duty-free entry of railroad equipment was added by section 4 of the Customs Administrative Act of 1938 (Customs Administrative Act of 1938, sec. 4, 52 Stat 1079). The purpose was to allow the Secretary of the Treasury to permit the temporary entry of foreign railroad equipment to relieve acute congestions in rail traffic which cannot be cleared by available domestic equipment in time to prevent serious loss or suffering. See Hearings before the House Committee on Ways and Means on H.R. 6738, 75th Cong., 132 (1937).

By Treasury Department Order No. 165, Revised (T.D. 53654); Customs Delegation Order No. 1 (Revision 1) (T.D. 69-126), as amended by T.D. 72-41, T.D. 72-42, and T.D. 72-321, the authority delegated to the Secretary of the Treasury by the statute has been redelegated to the Director, Carriers, Drawback and Bonds Division, U.S. Customs Service. Section 177.2 Customs Regulations (19 CFR 177.2), contains the procedures for obtaining administrative rulings from Customs. Section 177.2(d) sets forth the information that would be needed to establish the fact of an emergency requiring immediate consideration. There must be an administrative finding that an emergency exists and that the temporary use of foreign railroad equipment is needed to overcome that emergency. The courts have held that an administrative decision must be supported by substantial evidence. *University of Miami v. U.S.*, 64 C.C.P.A. 174, 176 (1977) and *Yale University and Brown University v. U.S.*, 65 C.C.P.A. 97, 103, 104 (1977).

REQUESTS FOR A RULING ON ITEM 864.40, TSUS

To reduce delay in the processing of requests for duty-free entry under these conditions, requests for a ruling on the applicability of item 864.40, TSUS, should provide the following information:

1. Name of Railroad and/or importer.
2. Ownership, type, and number of the items of railroad equipment to be imported.
3. Duration of importation period.
4. Evidence showing the existence of an emergency such as news reports.
5. Evidence that domestic equipment would not be available in time. This could be shown by unsuccessful and/or unsatisfied efforts to obtain sufficient equipment from other domestic railroads or from domestic railroad equipment manufacturers.

Because the statutory scheme to which these guidelines apply is triggered only by the occurrence of an emergency, there have been few requests for exemption under the statute in recent years. For example, there were only two such requests during 1982. During 1981 there were five requests and during 1980 there were four requests. Accordingly, since these information collection guidelines contemplate that nine or fewer persons will apply for the duty-free exemption each year, they are not subject to the requirements of section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chap. 35).

While Customs will make every effort to expedite requests of an emergency nature, if there is no evidence on which to base an administrative decision, Customs has no other option than to make an independent investigation of the facts. That will necessarily add to the time for processing such a request. Consequently, it would be in the best interests of all parties to insure that accurate detailed evidence as to both the emergency and the basis for allowing duty-

free entry of foreign railroad equipment to meet that emergency
presented with the request.

AUTHORITY

R.S. 251, as amended, sec. 624, 46 Stat. 759, Customs Administr
tive Act of 1938, sec. 4, 52 Stat. 1079, 77A Stat. 14; (5 U.S.C. 301,
U.S.C. 66, 1202, 1624 (General Headnote 11, 12, Tariff Schedules
the United States)).

DRAFTING INFORMATION

The principal author of this document was James S. Demb, Reg
lations Control Branch, Office of Regulations and Rulings, U.
Customs Service. However, personnel from other Customs offic
participated in its development.

Dated: April 28, 1983.

ALFRED R. DE ANGELUS,
Acting Commissioner of Customs.

[Published in the Federal Register, June 24, 1983 (48 FR 28982)]

(T.D. 83-142)

Tuna Fish—Tariff-Rate Quota

The tariff-rate quota for the calendar year 1983, on tuna classifiable under ite
112.30, Tariff Schedules of the United States, (TSUS)

AGENCY: U.S. Customs Service, Department of Treasury.

ACTION: Announcement of the quota quantity for tuna for cale
dar year 1983.

SUMMARY: Each year the tariff-rate quota for tuna fish describ
in item 112.30, (TSUS), is based on the U.S. pack of canned tu
during the preceding calendar year.

EFFECTIVE DATES: The 1983 tariff-rate quota is applicable
tuna fish entered, or withdrawn from warehouse, for consumpti
during the period January 1 through December 31, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Wagn
III, Head, Quota Section, Special Operations Branch, Duty Asses
ment Division, Office of Commercial Operations, U.S. Custom
Service, Washington, D.C. 20229 (202-566-8592).

It has now been determined that 91,903,800 pounds of tuna m
be entered for consumption or withdrawn from warehouse for co
sumption during the calendar year 1983, at the rate of 6 p
centum ad valorem under item 112.30, (TSUS). Any such tu
which is entered, or withdrawn from warehouse, for consumptio
during the current calendar year in excess of this quota will be d

tiable at the rate of 12.5 per centum ad valorem under item 112.34, (TSUS).

(QUO-2-CO:T:D:SO)

Dated: June 16, 1983.

DON KELLY
(For William von Raab,
Commissioner of Customs).

[Published in the Federal Register, June 23, 1983 (48 FR 28779)]

(T.D. 83-143)

Bonds

Approval and discontinuance of consolidated aircraft bonds (air carrier blanket bonds), Customs Form 7605

The following consolidated aircraft bonds have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: June 22, 1983.

Name of principal and surety	Date term commences	Date of approval	Filed with district director/area director/amount
Air National Sales & Service, 805-A Airport Rd., Monterey, CA; The Continental Ins Co.	Apr. 5, 1983	May 9, 1983	San Francisco, CA $100,000
The foregoing principal has not been designated as a carrier of bonded merchandise.			
Braniff Airways, Inc., also dba Braniff International World Headquarters, Braniff Blvd., Dallas/Fort Worth Airport, TX; Aetna Casualty & Surety Co. D 5/31/83	May 1, 1981	May 1, 1981	Dallas/Fort Worth, TX $200,000

BON-3-01

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

19 CFR Part 10

(T.D. 83-144)

Customs Regulations Amendment Relating to the Generalized System of Preferences

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the definition of the term "imported directly," to expand that definition to allow treatment under the Generalized System of Preferences (GSP) for eligible articles which: (1) originate in a beneficiary developing country, (2) are shipped to a developed country and auctioned there, and (3) then are shipped to the United States.

By allowing those eligible articles to be entered free of Customs duty, the beneficiary developing countries of which they are products will obtain the intended benefit established by the GSP.

EFFECTIVE DATE: This rule is effective as to merchandise entered or withdrawn from warehouse, for consumption on or after June 28, 1983.

FOR FURTHER INFORMATION CONTACT: Francis W. Foote, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5727).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Title V of the Trade Act of 1974, as amended (19 U.S.C. 2461-2465), authorizes the President to establish a Generalized System of Preferences (GSP) to provide duty-free treatment for eligible articles imported directly from designated beneficiary developing countries (BDCs). BDCs and articles eligible for GSP treatment are designated by the President by Executive Order in accordance with the provisions of the Trade Act. The Customs Regulations issued to administer the GSP are contained in sections 10.171-10.178 (19 CFR 10.171-10.178).

A notice was published in the Federal Register on April 7, 1983 (48 FR 15153), inviting public comments on Customs intention to expand the definition of "imported directly" in section 10.175, Customs Regulations (19 CFR 10.175), to encompass the traditional marketing procedure established for "Cameroon wrapper tobacco," as described in detail in that document. All information contained in the Supplementary Information Background section of that notice is hereby incorporated by reference in this document.

Discussion of Comments

Four comments were received in response to the notice. Three commenters were generally in favor of the proposal and one was opposed.

One commenter in favor of the proposal requested that an explanatory comment be published with the final rule to clarify that the new provisions would apply to shipments of all merchandise meeting the new criteria rather than only to the "Cameroon wrapper" tobacco specifically discussed in the notice. Another commenter, although also in favor of the proposal, requested that the words "except for sale other than at retail" be deleted from proposed new paragraph (d)(3) in order to avoid the implication that the sale of merchandise while in a customs bonded warehouse in an intermediate country would mean that the merchandise had entered the commerce of that country. This comment was based on the fact that under section 10.175(c) the purchase and resale of merchandise within a free trade zone maintained in a beneficiary developing country does not constitute entry of that merchandise into the commerce of that country. This commenter further suggested that the proposed new rule should specify an effective date coextensive with the effective date of Executive Order 12311 which gave GSP treatment to the subject tobacco so that all wrapper tobacco entered, or withdrawn from warehouse for consumption, on or after July 4, 1981, would be eligible for GSP treatment in accordance with the intent behind the Executive Order. The third commenter not opposed to the proposal suggested that, in order to ensure uniformity in the application of the GSP, Customs should specify what constitutes evidence sufficient to establish that a shipment complies with the requirements of the new provision.

The commenter opposed to the proposal questioned whether the legislative history relating to the GSP indicated a Congressional intent to confer duty-free treatment on the subject tobacco and whether it was proper to redefine the statutory term "imported directly" in the regulations. This commenter further suggested (1) that it would be difficult to maintain control over GSP merchandise to ensure that merchandise is not processed beyond the limits set forth in section 10.175, and (2) that the proposed rule will significantly increase the administrative workload of Customs.

With respect to the first comment, the new provisions will not apply only to "Cameroon wrapper" tobacco since no such limitation is contained in the proposed text. As concerns the proposal to delete the words "except for sale other than at retail" from proposed new paragraph (d)(3), these words should be retained so that the new provisions will conform to the limited factual situation which gave rise to the proposal, and in this regard it should also be noted that a customs bonded warehouse is not necessarily to be equated with the "free trade zone" mentioned in present section 10.175(c). The proposal to specify a retroactive effective date is not acceptable since such retroactivity would apply equally to merchandise other than wrapper tobacco; thus, the effect would be far broader than that intended by the commenter and would impose an inordinate administrative burden on Customs which would be required to reliquidate prior entries of other types of merchandise falling within the criteria set forth in the new rule. As concerns the suggestion that Customs specify what constitutes evidence to ensure compliance with the new provision, it is believed that it would be preferable to allow a certain amount of flexibility so that the district director of Customs will have discretion whether to allow GSP treatment based on the particular facts and evidence involved in each individual case.

With respect to the negative comment received, it is noted that the Congressional intent was to confer duty-free treatment on merchandise to be designated by the President as eligible for GSP treatment; the fact that the President designated wrapper tobacco as an eligible article under his delegated authority to do so is wholly consistent with the legislative intent behind the GSP. As concerns the definition of "imported directly", it is to be noted that this term appears in 19 U.S.C. 2463(b) but is not defined therein; the Secretary of the Treasury is authorized under that subsection to prescribe regulations to carry out its provisions and, therefore, the existing regulatory provisions and the new proposal under consideration are entirely appropriate. The alleged difficulties in maintaining control over GSP merchandise are equally applicable to the present GSP regulations and no particular problems appear to have been experienced with the existing provisions. Finally, Customs has determined that the rule, as adopted, will not result in a significant increase in the administrative workload of Customs.

After consideration of the comments, as discussed above, and further review of the matter, Customs has determined to adopt the proposal without modification.

INAPPLICABILITY OF DELAYED EFFECTIVE DATE

Because the next annual sale of Cameroon wrapper tobacco eligible to receive GSP treatment under the criteria specified in this rule is to occur during June 1983, Customs has determined that good cause exists for dispensing with a delayed effective date pursuant to 5 U.S.C. 553(d)(3).

EXECUTIVE ORDER 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

REGULATORY FLEXIBILITY ACT

It is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule will not have a significant economic impact on a substantial number of small entities.

DRAFTING INFORMATION

The principal author of this document was Todd J. Schneider, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

LIST OF SUBJECTS IN 19 CFR PART 10

Customs duties and inspection, Generalized System of Preferences, Imports, Tobacco.

AMENDMENT TO THE REGULATIONS

Part 10, Customs Regulations (19 CFR Part 10), is amended as set forth below.

ALFRED R. DE ANGELUS,
Acting Commissioner of Customs.

Approved: June 7, 1983.
JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, June 28, 1983 (48 FR 29683)]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Section 10.175 is amended as follows:

§ 10.175 Imported directly defined.

1. In paragraph (b), add "or (d)" after the phrase "paragraph (c)";
2. In paragraph (c)(5), replace the period with "; or"; and
3. Add a new paragraph (d) to read as follows:

* * * * * * *

(d) If shipped from the beneficiary developing country to the United States through the territory of any other country, provided that the eligible article:

(1) Is wholly the growth or product of the beneficiary developing country;

(2) Remains under the control of the customs authorities of the intermediate country;

(3) Does not enter into the commerce of the intermediate country except for sale other than at retail, and the district director is satisfied that the importation results from the original commercial

transaction between the importer and the producer or the latter's sales agent;

(4) Has not been subjected to operations other than loading and unloading, and other activities necessary to preserve the article in good condition; and

(5) Complies with the origin requirements for goods exported to the United States under the Generalized System of Preferences, as stated in the Certificate of Origin Form A, which shall be issued by the beneficiary developing country. In addition, the beneficiary developing country shall provide, upon request, evidence sufficient to satisfy the appropriate Customs official that the shipment complies with the requirements of this paragraph.

(R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 503(b), 88 Stat. 2069, as amended (19 U.S.C. 66, 1624, 2463(b)))

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19 CFR Parts 148, 171

(T.D. 83-145)

Guidelines for Disposition of Violations of 19 U.S.C. 1497

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document sets forth revised guidelines used by the Customs Service and Treasury Department for the disposition of liabilities incurred under section 497, Tariff Act of 1930 (19 U.S.C. 1497), for the failure to declare articles to Customs upon entry into the United States. The document also amends the Customs Regulations to include the guidelines as an appendix and to reflect their issuance. Customs believes it is in the interest of the efficient and effective administration of its enforcement responsibility that the public be aware of the guidelines.

EFFECTIVE DATE: August 1, 1983. The interim guidelines, published as T.D. 82-35 in the Federal Register on February 19, 1982 (47 FR 7408), will remain in effect until the effective date of this document.

FOR FURTHER INFORMATION CONTACT: Kathryn C. Peterson, Miscellaneous Penalties Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5746).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Under the provisions of section 498, Tariff Act of 1930, as amended (19 U.S.C. 1498), and section 148.11, Customs Regulations (19 CFR 148.11), persons arriving in the United States from a foreign place are generally required to declare to Customs officers, at the port of first arrival in the United States, all articles which they are bringing in with them.

As provided by section 497, Tariff Act of 1930 (19 U.S.C. 1497), failure to declare articles subjects the undeclared articles to forfeiture to the Government, and the individual who fails to declare the articles to a personal penalty equal to the value of the undeclared articles.

Ordinarily, the full statutory liability would be imposed only by judicial process. Section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618), provides for an administrative process which permits the person interested in any seized articles, or who has incurred, or is alleged to have incurred, any fine or penalty, to petition for resolution of these liabilities for amounts less than the full statutory liability. This provision authorizes the Secretary of the Treasury to remit or mitigate any fine, penalty, or forfeiture, incurred under customs or navigation laws when he finds that such fine, penalty, or forfeiture was incurred without willful negligence or without any intention on the part of the petitioner to defraud the revenue or to violate the law, or finds the existence of such mitigating circumstances to justify such action. Part 171, Customs Regulations (19 CFR Part 171), contains provisions for the filing of petitions for relief from fines, penalties, and forfeitures incurred for violations of customs and other laws. Section 171.11, Customs Regulations (19 CFR 171.11), requires that petitions for relief be filed with the Customs Service.

The overwhelming majority of violations of section 497 are disposed of administratively pursuant to the provisions of section 618. The various district directors of Customs throughout the United States have been delegated authority by section 171.21, Customs Regulations (19 CFR 171.21), to resolve cases in which the statutory liability does not exceed $25,000, on such terms and conditions as, under the law and in view of the circumstances, they deem appropriate. The Commissioner of Customs exercises jurisdiction over cases between $25,000 and $100,000. The Secretary of the Treasury has retained authority to decide petitions for relief from liabilities arising under section 497 when those liabilities exceed $100,000.

National guidelines were developed for use in mitigating and thereby disposing of violations of section 497 administratively, in part, because many different Customs officers have authority to act on petitions for relief. Guidelines were issued in 1964, and were revised and reissued in 1974.

The primary objective of the guidelines is to encourage compliance with the entry declaration requirements. They should be sufficiently punitive to deter future violations without being overly harsh, and penalties should reflect all of the circumstances surrounding the violation in order to effect substantial justice.

Customs experience with the 1974 guidelines has been that they were too inflexible to serve these objectives. Furthermore, the 1974 guidelines failed to provide adequate guidance for certain categories of violations.

As a result, numerous Customs districts have developed practices of taking amounts less than those specified in the 1974 guidelines, when factors justifying such mitigation were found. Although guidelines are not absolute rules and the Customs field officers acted within their discretionary authority, these actions emphasized the need for attention to uniform guidelines on a national basis.

In response to this situation, projects were commenced at the Department of Treasury and Customs to reexamine the section 497 guidelines. By T.D. 82-35, published in the Federal Register on February 19, 1982 (47 FR 7408), interim guidelines developed as a result of these projects were set forth and made effective immediately. However, public comment on the interim guidelines was invited. This document sets forth the final revised section 497 guidelines, which will be an appendix to Part 171, Customs Regulations and sets forth an amendment to section 148.18, Customs Regulations, (19 CFR 148.18).

With respect to dutiable articles, the guidelines are duty-based in that the statutory liability is remitted upon payment of an amount that is a multiple (1 times, 2 times, 3 times, etc.) of the duty that would have been owed on the articles had they been properly declared. The 1974 guidelines also used a duty-based approach. The new guidelines differ from the 1974 guidelines in that some of the multiples are different, and in the that the new guidelines list certain mitigating and aggravating factors which, if applicable, may be used to vary the multiple of the duty.

The new guidelines also state the disposition of the statutory liability with respect to the non-declaration of duty-free articles, a topic which was not addressed in the 1974 guidelines. Violations involving articles entitled to conditional duty-free entry are subject to a duty-based disposition, while violations involving articles absolutely entitled to duty-free entry are subject to disposition based upon a percentage of the domestic value of the articles. Mitigating and aggravating factors may apply to violations involving duty-free articles.

The guidelines also include numerous other rules relating to the disposition of liabilities incurred pursuant to section 497.

The document amends section 148.18 by revising paragraph (b) to reflect these new guidelines, and by removing paragraph (c). Section 148.18(a) is revised to conform with these amendments. Revised section 148.18(b) states that when an article is not declared as required by subpart B of Part 148, the penalty and forfeiture may be remitted in accordance with these new guidelines. To have present sections 148.18(b) and (c) in effect at the same time as the new guidelines could create confusion and uncertainty. Present sections 148.18(b) and (c) apply when: (1) an article was not declared as required; (2) the article would have been free of duty and internal revenue tax if it had been properly declared; (3) its importation was not prohibited or restricted; and (4) the failure to declare was not due to willful negligence or fraudulent intent. "Willful negligence" is not addressed specifically in the new guidelines, and "intent" is addressed only as an aggravating factor, so that present sections 148.18(b) and (c) are not totally consonant with the new guidelines. Furthermore, the disposition of certain liabilities is different in present sections 148.18(b) and (c) and new guidelines. Present sections 148.18(b) and (c) provide for the complete remission of the penalty and forfeiture with respect to certain duty-free articles when the requirements of section 148.18(b) were met, while the new guidelines provide for a penalty based upon the domestic value of the articles for absolutely duty-free articles.

We believe that the new guidelines provide for additional deterrence, flexibility, consistency, and guidance.

Discussion of Comments

Numerous comments were received in response to the publication of the interim guidelines.

The fact that the undeclared articles were commercial articles was stated to be an aggravating factor in the interim guidelines. One commenter thought that those failing to declare commercial articles should be held to a higher standard because of the higher degree of knowledge of Customs requirements imputed to those importing articles for commercial purposes. Another thought that commercial violators should be treated more harshly than ordinary, non-commercial violators. Customs agrees with both of these comments and has created a separate category for violations involving commercial articles.

Some commenters observed that there were several places in the interim guidelines where it would be possible, in the case of low-value goods, to have a less severe penalty for a violation where aggravating factors are present, than for a violation where aggravating factors are not present. Customs agrees with these comments, and minimum amounts or a reference to the domestic value have been added to the guidelines to correct this problem.

One commenter correctly pointed out a conflict between the mitigating factors set forth in I.A.2.a. of the interim guidelines and section 148.16(b), Customs Regulations. As a result, that mitigating factor has been deleted from the guidelines.

Two commenters disapprove of considering informant information as an aggravating factor. Customs believes that the fact that a person other than the violator had knowledge of the violation tends to establish specific intent on the part of the violator. However, the language of this aggravating factor has been amended to clearly set forth its purpose.

Two commenters state that the examples given of "extreme lack of cooperation," which is an aggravating factor, are inappropriate. As a result of this comment "rude behavior" has been deleted from this factor, and the language of the factor has been rephrased to emphasize the "lack of respect for law and authority."

One commenter opines that the guidelines should specifically state that aggravating factors may be offset by mitigating factors. Although this was intended in the guidelines, it has been added in the "Other Applicable Rules" section as suggested.

Two commenters suggest referencing in the guidelines an internal Customs directive that the rate of duty to be used in computing the penalty amount is the appropriate rate from Schedules 1-7, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), and not the flat rate from Schedule 8, TSUS. This suggestion has been adopted.

One commenter recommended that the guidelines provide for the collection of internal revenue tax, when it is owed. Customs agrees and has added a statement that duty includes any internal revenue tax which would have attached upon importation (see also section 101.1(i), Customs Regulations (19 CFR 101.1(i)), which defines "duties").

One commenter believes that minimum amounts are confusing and may produce inequitable results. Customs believes that minimum amounts are important from the standpoint of providing a meaningful penalty that will deter future violations, and does not think they will create administrative problems. The minimum amounts have been retained and, in some places, added.

One commenter maintains that the guidelines fail to address the situation in which the violator has no knowledge of the declaration requirements. Customs makes every effort to inform a traveler of the declaration requirements. Failure of an individual to read the written material advising him of his responsibility does not excuse a subsequent violation of section 497.

A commenter contends that a traveler who establishes contributory Customs error should be entitled to complete remission of the liability, rather than merely being given the benefit of a mitigating factor. If Customs error is the sole reason for an improper declaration, a liability will not be incurred by the traveler. However, if incorrect advice given by Customs merely contributes to a violation of section 497, the Customs official should have the ability to assess a penalty, and consider the incorrect advice as a mitigating factor.

Three commenters make mention of section 148.18, Customs Regulations. One commenter states that the guidelines should cite section 148.18 and its applicability. Another contends that the guidelines have the effect of amending section 148.18. A third commenter believes that section 148.18 should apply in certain situations covered by the guidelines. As stated previously, section 148.18

is being amended to be consistent with the guidelines and to refer to them.

A commenter disagrees with the use of domestic value as a basis for calculating the penalty when absolutely duty-free articles are involved. He states that in most instances Customs simply doubles the foreign value to arrive at domestic value, and that this may result in a penalty sum exceeding the amount that would have been imposed had the articles been dutiable. Customs is developing instructions for its officers on how to compute domestic value which should resolve any problems in this regard.

Another commenter contends that a flat sum penalty is more equitable for a failure to declare absolutely duty-free articles. Customs disagrees. A percentage of the domestic value is most appropriate for a violation of this type. A percentage of the domestic value relates more equitably to the statutory liability than a flat sum does. A flat sum would encourage the non-declaration of high value duty-free articles (where non-declaration is part of a criminal scheme) because of the low risk.

A commenter states that normal disposition of a first offense should result in a penalty of *up to* three times the duty, rather than three times the duty. Customs believes that this proposal would result in confusion and a lack of uniformity.

A commenter maintains that, if an individual who has cleared Customs without discovery of any undeclared articles returns and declares the articles, the individual should be permitted to pay the duty, rather than a penalty equal to the duty. This determination is subject to the discretion of the Customs officer, with the decision to be made after consideration of all of the facts.

A commenter states that the guidelines focus only on the guilt of the traveler and do not recognize that there may not have been a violation. In the absence of a violation Customs will not assess a penalty. The guidelines are only to be used if it has been determined that there is a violation. If there is no violation, the guidelines have no application.

One commenter states that the interim guidelines are defective in that they do not comply with the requirements of the Administrative Procedure Act (5 U.S.C. 551-559), because there was no notice of proposed rulemaking, no invitation in advance of issuance to submit written data, and no delayed effective date.

The guidelines are not subject to the above-stated requirements of the Administrative Procedure Act inasmuch as notice and public procedures thereon are unnecessary and contrary to the public interest. Customs believes that it was in the public interest for the interim guidelines to become effective when published because they conferred a benefit on the public since they generally provide for lesser penalty amounts than the 1974 guidelines. Furthermore, there was a need for uniformity and immediate guidance in this area. While the guidelines became effective immediately, the public was given an opportunity to comment on them and the comments were thoroughly considered in the formulation of the final guidelines, which will be an appendix to Part 171, Customs Regulations.

NOTICE AND PUBLIC PROCEDURE

Matter similar to the subject covered in section 148.18 was published as part of the interim guidelines. As pointed out by one of the commenters, existing section 148.18 is inconsistent with the guidelines. Since public comment was solicited on the guidelines, no purpose would be served by soliciting public comments on an amendment to section 148.18 to conform it to the guidelines. Accordingly, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure are unnecessary.

As stated previously, the guidelines are not subject to the notice and public procedure requirements of the Administrative Procedure Act inasmuch as notice and public procedure thereon are unnecessary and contrary to the public interest.

EXECUTIVE ORDER 12291

These amendments do not constitute a "major rule" as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

REGULATORY FLEXIBILITY ACT

These amendments are not subject to the provisions of Pub. L. 96-354, the Regulatory Flexibility Act (5 U.S.C. 601-612), because publication of a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), or any other law.

DRAFTING INFORMATION

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

LIST OF SUBJECTS IN 19 CFR

Part 148

Customs duties and inspection, Imports.

Part 171

Customs duties and inspection, Imports, Administrative practice and procedure, Law enforcement, Penalties, Seizures and forfeitures.

AMENDMENTS TO THE REGULATIONS

Parts 148 and 171, Customs Regulations (19 CFR Parts 148, 171), are amended as set forth below.

WILLIAM VON RABB,
Commissioner of Customs.

Approved: June 14, 1983.
JOHN M. WALKER, JR.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, June 30, 1983 (48 FR 30098)]

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

Section 148.18 is revised to read as follows:

§ 148.18 Failure to declare.

(a) *Penalty incurred.* Any article in the baggage of a passenger arriving from a foreign country which is not declared as required by this subpart shall be seized if it is available for seizure at the time the violation is detected, and the personal penalty prescribed by section 497, Tariff Act of 1930 (19 U.S.C. 1497), shall be demanded from the passenger. If the article is not seized, a claim for the personal penalty shall be made against the person who imported the article without declaration. No duty shall be collected, because undeclared articles are treated as smuggled.

(b) *Remission of liability.* When an article not declared as required by this subpart is found in the baggage of a person arriving in the United States, the personal penalty and forfeiture may be mitigated or remitted in accordance with the Guidelines for Disposition of Violations of 19 U.S.C. 1497 in the Appendix to Part 171 of this chapter.

(R.S. 251, as amended, sec. 498, 46 Stat. 728, as amended, sec. 618, 46 Stat. 757, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1498, 1618, 1624))

PART 171—FINES, PENALTIES, AND FORFEITURES

Part 171 is amended by adding the following as Appendix A: Appendix A—Guidelines for Disposition of Violations of 19 U.S.C. 1497.

Liabilities incurred under section 497, Tariff Act of 1930 (19 U.S.C. 1497), shall be mitigated or remitted in accordance with the following guidelines (see also Part 148, Customs Regulations):

I. *Violations Involving Dutiable Articles.* For violations involving articles subject to duty and for which there is no applicable exemption from duty, the following rules apply:

1. *Mitigated Penalty for First Offense.* For violations which are the first offense, where there is knowledge of the declaration requirements, and where the undeclared articles are discovered by

the Customs officers, the liabilities shall be remitted upon payment of THREE TIMES THE DUTY (but not less than $50), or the domestic value, whichever is lower.

2. *Mitigating Factors.* When one or more of the following mitigating factors are present, the deciding officer may, within his discretion, remit the liabilities upon payment of BETWEEN ONE AND ONE-HALF AND THREE TIMES THE DUTY or the domestic value, whichever is lower:

a. Communications with the violator are impaired because of language barrier, mental condition, or physical ailment;

b. Violator cooperates with Customs officers after discovery of the violation by providing additional information which facilitates conclusion of the case;

c. Violator is an inexperienced traveler;

d. There is contributory Customs error (for example, violator demonstrates he was given incorrect advice by a Customs officer).

3. *Aggravating Factors.* When one or more of the following aggravating factors are present, the deciding officer may, within his discretion, remit the liabilities upon payment of BETWEEN THREE AND SIX TIMES THE DUTY (but not less than $100), or the domestic value, whichever is lower:

a. Documentary or other evidence discovered establishes violator's intent;

b. Informant provides information which tends to establish violator's intent and leads to discovery of the violation after the violator has been given an opportunity to properly declare;

c. Violator is an experienced traveler;

d. Undeclared articles are concealed to evade U.S. law;

e. There is behavior, including extreme lack of cooperation, verbal or physical abuse, or attempted escape, which tends to demonstrate a lack of respect for law and authority.

4. *Commercial Articles.* When the undeclared articles are brought in for commercial purposes, the liabilities shall be remitted upon the payment of SIX TIMES THE DUTY (but not less than $100), or the domestic value, whichever is lower. Mitigating factors may be used to lower this amount to as little as THREE TIMES THE DUTY; aggravating factors may be used to increase this amount up to EIGHT TIMES THE DUTY.

5. *Extraordinary Mitigating Factor.*

a. When an individual who has been cleared through Customs without discovery of any undeclared article returns to the examination area and declares that article, the deciding officer may, within his discretion, remit the liabilities upon payment of ONE TIMES THE DUTY.

b. An individual who declares articles some time later (hours, days, weeks, etc.) may be treated similarly.

6. *Extraordinary Aggravating Factors.*

a. When the offense is a second or subsequent violation, the deciding officer may, within his discretion, remit the liabilities upon payment of BETWEEN SIX AND EIGHT TIMES THE DUTY (but not less than $250), or the domestic value, whichever is lower.

b. When the offense is a second or subsequent violation, and there are aggravating factors present, generally there shall either be a denial of relief or mitigation to NO LESS THAN EIGHT TIMES THE DUTY or the domestic value, whichever is lower.

c. When there is evidence of an ongoing scheme to defraud the revenue involving multiple entries without declaration of articles subject to declaration, the deciding officer shall act in accordance with the preceding paragraph.

II. *Violations Involving Absolutely or Conditionally Free Articles.* For violations involving articles either entitled to entry free of duty absolutely (classifiable under a duty-free provision in Schedules 1-7, Tariff Schedules of the United States (TSUS); (19 U.S.C. 1202)), or entry free of duty conditionally (entitled to treatment under the Generalized System of Preferences (see section 10.171-10.178, Customs Regulations) or Schedule 8, TSUS), the following rules apply:

1. *Mitigated Penalty for First Offense.*

a. For violations which are first offense, and involve articles entitled to the benefit of GSP or Schedule 8, TSUS, the liabilities shall be remitted upon payment of ONE TIMES THE DUTY which would have been due if the articles had not been entitled to the benefit.

b. For violations which are first offense, and involve absolutely duty-free articles, the liabilities shall be remitted upon payment of BETWEEN ONE AND FIVE PERCENT OF THE DOMESTIC VALUE, but not less than $50 (or the domestic value, whichever is less) nor more than $1,000.

2. *Mitigating Factors.* When mitigating factors such as those outlined above are present, the deciding officer may, in his discretion, reduce the mitigated amount to a lower figure.

3. *Aggravating Factors.*

a. When aggravating factors such as those outlined above are present, the deciding officer may, in his discretion, remit the liabilities for conditionally free articles upon the payment of BETWEEN ONE AND TWO TIMES THE DUTY (but not less than $100), or the domestic value, whichever is lower.

b. For absolutely free articles, the deciding officer may remit the liabilities upon payment of BETWEEN FIVE AND TEN PERCENT OF THE DOMESTIC VALUE, but not less than $100.

4. *Commercial Merchandise.*

The fact that undeclared duty-free articles are imported for commercial purposes may be considered an aggravating factor under section II.3. of these guidelines.

III. *Other Applicable Rules.*

1. These guidelines provide a framework and procedure by which violations of 19 U.S.C. 1497 are to be analyzed. They are not mandatory in the sense that they must be absolutely applied. Customs officers varying from these guidelines must provide reasons for doing so in the case record.

2. Customs officers shall document mitigating and aggravating factors found in each case in the case file. There must be a basis shown for mitigated amounts.

3. It is intended that mitigating and aggravating factors shall be considered together and used to offset each other where appropriate.

4. The rate of duty to be used in calculating the mitigated penalty shall be the appropriate rate from Schedules 1-7, TSUS, and not the flat rate from Schedule 8, TSUS.

5. "Duty" means Customs duties and any internal revenue taxes which would have attached upon importation (see section 101.1(i), Customs Regulations). Therefore, multiples will also be applied to internal revenue taxes which would have been due.

6. Customs officers may, within their discretion, consider other factors not here delineated as aggravating or mitigating and apply the guidelines accordingly. These additional factors must also be documented in the case file.

7. These guidelines are not authority for admitting into the commerce of the United States articles which are conditionally or absolutely prohibited from entry.

8. The presence of one or more extraordinary aggravating factors, including but not limited to those set forth in section I.6. of these guidelines, may within the discretion of the deciding officer be a basis for denial of relief.

9. If the violator is being prosecuted criminally, the civil (19 U.S.C. 1497) liability generally is administratively settled only after completion of the prosecution or with the express approval of the appropriate U.S. attorney. Criminal prosecution of the violator, however, is insufficient grounds to delay indefinitely determination of the civil liability. The district director or area director should contact the Regional Counsel of Customs to determine the best course of action to follow with respect to the civil liability. Regional Counsel will consult with the U.S. attorney and the Miscellaneous Penalties Branch at Customs Headquarters. Because of time delay problems, all *seizures* involving criminal prosecutions must be promptly coordinated in this manner, and consideration should be given to immediate referral of the forfeiture action to the U.S. attorney for the institution of a judicial proceeding.

(R.S. 251, as amended, sec. 498, 46 Stat. 728, as amended, sec. 618, 46 Stat. 757, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1498, 1618, 1624))

19 CFR Part 101

(T.D. 83-146)

Change in the Customs Service Field Organization

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to change the Customs Service field organization by extending and redefining the geographical limits of the port of Seattle, Washington, within the consolidated Customs port of entry of Puget Sound, Washington. The change is being made because commercial operations requiring the services of Customs personnel have been established in areas beyond the territory within the current limits of the Seattle port.

EFFECTIVE DATE: August 4, 1983.

FOR FURTHER INFORMATION CONTACT: Richard C. Coleman, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8157).

SUPPLEMENTARY INFORMATION:

BACKGROUND

The limits of the consolidated Customs port of entry of Puget Sound, Washington, were extended by T.D. 79-169, published in the Federal Register on June 15, 1979 (44 FR 34478). Since that time commercial operations requiring the services of Customs personnel have been established in areas beyond the territory within the current limits of the Seattle, Washington, port, which is within the consolidated port of entry of Puget Sound. The volume of cargo moving through the port of Seattle, Washington, has grown substantially and many new facilities for clearing, storing, and forwarding imported merchandise have moved or are contemplating moving from their waterfront locations to facilities outside of the present port limits. As part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and in order to provide better service to carriers, importers, and the public, on November 30, 1981, Customs published a notice in the Federal Register (46 FR 58093), proposing to extend and redefine the geographical limits of the Puget Sound port of entry. The document proposed to eliminate specific reference to the ports of "Kenmore Air Harbor" and "Renton Municipal Airport and Seaplane Base," as set forth in T.D. 79-169, with the territories encompassed by both of those ports included within the limits of the port of Seattle, as extended. Neither Kenmore Air Harbor nor Renton Municipal Airport and Seaplane Base is manned continually by Customs personnel. Both are serviced by Customs personnel from

Seattle on an "as-needed" basis. In addition to the port of Seattle, as extended, the consolidated port of Puget Sound includes all of the area within the present port limits of Anacortes, Bellingham, Everett, Friday Harbor, Neah Bay, Olympia, Port Angeles, Port Townsend, and Tacoma, Washington. Other than extending the port limits of Seattle, there will be no change in Customs service to the other ports in the Puget Sound port of entry.

No comments were received in response to the notice proposing this change. Accordingly, after further review of the matter, it has been determined to adopt the change with one minor alteration. The description of the geographical limits of the port of Seattle within the consolidated port of Puget Sound, Washington, as stated in the notice proposing the change, is modified and simplified in this document. Instead of using geographical sections to describe the territorial boundaries of the Seattle port, popular names of streets are substituted. The area described is the same, but the description is now simpler and more comprehensible. This document amends section 101.3, Customs Regulations (19 CFR 101.3), to change the Customs field organization by extending and redefining the geographical limits of the consolidated port of entry of Puget Sound.

Changes in the Customs Service Field Organization

Under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949-1953 Comp., Ch. II) and pursuant to authority provided by Treasury Department Order No. 101-5 (47 FR 2449), the limits of the consolidated port of Puget Sound, Washington, are extended and redefined to be as follows:

The ports of Seattle (section 35, Township 27 North, Range 3 East, West Meridian, County of Snohomish, and the geographical area within the boundaries beginning at the intersection of N.W. 205th Street and the waters of Puget Sound, proceeding in an easterly direction along the King County line to its intersection with 100th Avenue N.E., thence southerly along 100th Avenue N.E. and its continuation to the intersection of 100th Avenue S.E. and 240th Street S.E., thence westerly along 240th Street S.E. and South, to its intersection with the waters of Puget Sound and then northerly along the shores of Puget Sound to its intersection with N.W. 205th Street, the point of beginning, County of King, all within the State of Washington), Anacortes, Bellingham, Everett, Friday Harbor, Neah Bay, Olympia, Port Angeles, Port Townsend, and the territory in Tacoma beginning at the intersection of the westernmost city limits of Tacoma and The Narrows and proceeding in an easterly, then southerly, then easterly direction along the city limits of Tacoma to its intersection with Pacific Highway (U.S. Route 99), then proceeding in a southerly direction along Pacific Highway to its intersection with Union Avenue Extended and continuing in a southerly direction along Union Avenue Extended to its intersection with the northwest corner of McChord Air Force Base, then proceeding along the northern, then western, then southern boundary of McChord Air Force Base to its intersection, just west of Lake Mondress, with the northern boundary of the Fort Lewis Military Reservation, then proceeding in an easterly direction along the northern boundary of the Fort Lewis Military Reservation to its intersection with Pacific Avenue, then proceeding in a southerly direction along Pacific Avenue to its intersection with National Park Highway, then proceeding in a southeasterly direction along National Park Highway to its intersection with 224th Street, East, then proceeding in an easterly direction along 244th Street, East, to its intersection with Meridian Street, South, then proceeding in a northerly direction along Meridian Street to the northern boundary of Pierce County, then proceeding in a westerly direction along the northern boundary of Pierce County to its intersection with Puget Sound, then proceeding in a generally southwesterly direction along the banks of the East Passage of Puget Sound, Commencement Bay, and The Narrows to the point of intersection with the westernmost city limits of Tacoma, including all points and places on the southern boundary of the Juan de Fuca Strait from the eastern port limits of Neah Bay to the western port limits of Port Townsend, all points and places on the western boundary of Puget Sound, including Hood Canal, from the port limits of Port Townsend to the northern port limits of Olympia, all points and places on the southern boundary of Puget Sound from the port limits of Olympia to the western port limits of Tacoma, and all points and places on the eastern boundary of Puget Sound and contiguous waters from the port limits of Tacoma north to the southern port limits of Bellingham, all in the State of Washington.

LIST OF SUBJECTS IN 19 CFR PART 101

Customs duties and inspection, imports, organization.

AMENDMENT TO THE REGULATIONS

PART 101—GENERAL PROVISIONS

To reflect this change, the column headed "Ports of entry" in the list of Customs regions, districts, and ports of entry in section 101.3, Customs regulations (19 CFR 101.3), is amended by removing "Kenmore Air Harbor" and inserting "T.D. 83-146" in place of "T.D. 79-169", in the description for the consolidated port of entry of Puget Sound, Washington, in the Seattle, Washington, Customs district.

EXECUTIVE ORDER 12291

Because this amendment relates to the organization of the Customs Service, pursuant to section 1(a)(3) of E.O. 12291, it is not subject to that E.O.

REGULATORY FLEXIBILITY ACT

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this amendment. Customs routinely establishes, expands, and consolidates Customs ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the country. Although this change may have a limited effect upon some small entities in the Puget Sound area, it is not expected to be significant because the extension of the limits of Customs ports of entry in other locations has not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Regulatory Flexibility Act. Accordingly, it is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the amendment will not have a significant economic impact on a substantial number of small entities.

DRAFTING INFORMATION

The principal author of this document was James S. Demb, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

ALFRED R. DE ANGELUS,
Acting Commissioner of Customs.

Approved: June 23, 1983.
JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, July 5, 1983 (48 FR 30611)]

(T.D. 83-147)

Bonds

Approval and discontinuance of Carrier's Bonds, Customs Form 3587

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: July 1, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Admiral Merchants Motor Freight, Inc., 215 S. 11th St., Minneapolis, MN; motor carrier; Allied Fidelity Ins. Co. (PB 7/27/82) D 6/7/83 [1]	June 6, 1983	June 6, 1983	Minneapolis, MN $50,000
Algocen Transport Inc., 3049 Devon Dr., Windsor, Ontario, Canada; motor carrier; Old Republic Ins. Co.	June 10, 1983	June 12, 1983	Detroit, MI $50,000
Alto's Express, Inc., 2301 Garry Rd., Cinnaminson, NJ; motor carrier; U.S. Fire Ins. Co. D 7/23/83	July 23, 1979	Aug. 24, 1979	Phila., PA $50,000
IS. Anderson Trucking Co., Port Arthur, TX; motor carrier; The Travelers Indemnity Co. D 6/16/83	Sept. 17, 1971	Oct. 15, 1971	Port Arthur, TX $25,000
arolina Western Express, Inc., P.O. Box 3995, Gastonia, NC; motor carrier; Dependable Ins. Co., Inc. (PB 10/20/82) D 5/31/83 [2]	May 30, 1983	June 1, 1983	Wilmington, NC $25,000
ack Cole-Dixie Highway Co., P.O. Drawer 274, 1900 Vanderbilt Rd., Birmingham, AL; motor carrier; Protective Ins. Co. D 6/6/83	Aug. 20, 1979	Oct. 2, 1979	Mobile, AL $25,000
ollins Moving Systems, Inc., 904 West Morgan St., Kokomo, IN; motor carrier; Fidelity & Deposit Co. of MD D 6/17/83	June 29, 1981	July 20, 1981	Cleveland, OH $50,000
ayne Daniel Truck, Inc., P.O. Box 303, Mt. Vernon, MO; motor carrier; The Travelers Indemnity Co. D 6/10/83	July 30, 1981	July 30, 1981	St. Louis, MO $50,000
D. Drayage Co., P.O. Box 77083, 2955 3rd St., San Fran., CA; motor carrier; Fidelity & Deposit Co. of MD	Nov. 30, 1982	June 9, 1983	San Fran., CA $25,000
een Streak Services, P.O. Box 3405, Mankato, MN; motor carrier; The North River Ins. Co.	Jan. 20, 1983	Apr. 1, 1983	Minneapolis, MN $50,000
& W Hotshot Delivery Service, nc., P.O. Box 96503, Houston, X; motor carrier; Washington nternational Ins. Co.	June 2, 1983	June 3, 1983	Houston, TX $50,000

ootnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Haney Truck Line, Inc., P.O. Box 485, Cornelius, OR; motor carrier; Oregon Automobile Ins., Co. (PB 6/10/81) D 6/9/83	June 10, 1983	June 10, 1983	Portland, OR $25,000
Hawk of Connecticut, Inc., 137 Harvard Ave., Stamford, CT; motor carrier; Federal Ins. Co. D 6/30/83	June 30, 1971	Sept. 10, 1971	Bridgeport, CT $25,000
M. H. Hillery, Inc., 90 Western Ave., Allston, MA; motor carrier; National Surety Corp. (PB 4/14/77) D 6/3/83 [3]	May 19, 1983	June 3, 1983	Boston, MA $50,000
Intermodal Services, Inc., 11650 Courthouse Blvd., Inver Grove Heights, MN; motor carrier; Old Republic Ins. Co. (PB 2/16/81) D 5/19/83 [4]	Mar. 15, 1983	May 19, 1983	Minneapolis, MN $50,000
Miller Trucking, Inc., 3230 N. Main St., Manchester, MD; motor carrier; U.S. Fidelity & Guaranty Co.	May 2, 1983	June 16, 1983	Balt., MD $25,000
Moore-McCormack Lines, Inc., Two Broadway, New York, NY; water carrier; American Motorists Ins. Co. (PB 1/28/72) D 5/16/83 [5]	May 16, 1983	June 8, 1983	New York Seaport $100,000
National Freight Inc., 57 W. Park Ave., Vineland, NJ; motor carrier; The Aetna Casualty & Surety Co. D 8/1/83	July 10, 1977	Sept. 29, 1977	Phila., PA $50,000
Overland Express Inc., 8651 Naples St., NE, Blaine, MN; motor carrier; St. Paul Fire & Marine Ins. Co.	Nov. 10, 1982	June 7, 1983	Minneapolis, MN $50,000
Southwest International Freight Services, Inc., 2020 McDaniel St., P.O. Box 788, Carrollton, TX; motor carrier; Royal Indemnity Co.	June 7, 1983	June 10, 1983	Dallas/Fort Worth, TX $25,000
Texas Con-Tran, Inc., 9722 Telephone Rd., Houston, TX; motor carrier; Washington International Ins. Co D 6/10/83	Dec. 28, 1979	Jan. 10, 1980	Galveston, TX $25,000
Thunderbird Motor Freight Lines, Inc., 210 E. State, Kokomo, IN; motor carrier; The Aetna Casualty & Surety Co. D 6/1/83	Jan. 7, 1982	Feb. 9, 1982	Houston, TX $25,000
Transcaribbean Trucking Corp., P.O. Box 564, San Juan, PR; motor carrier; American Fidelity Fire Ins. Co. D 6/14/83	Apr. 5, 1972	Aug. 14, 1972	San Juan, PR $25,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Transportation Systems International, Inc., 2500 Kennedy St., NE, Minneapolis, MN; motor carrier; The American Ins. Co. (PB 4/14/81) D 4/15/83 [6]	Apr. 15, 1983	Apr. 15, 1983	Minneapolis, MN $50,000
Truck Air of the Carolinas, Inc., P.O. Box 6427, Greenville, SC; motor carrier; Ins. Co. of North America	June 15, 1983	June 16, 1983	Charleston, SC $25,000
WTS, Inc., P.O. Box 791, Fenton, MO; motor carrier; The Continental Ins. Co.	June 7, 1983	June 13, 1983	St. Louis, MO $50,000
Yelton Trucking Co., Inc., 513 Buckingham Ave., Wilmington, NC; motor carrier; St. Paul Fire & Marine Ins. Co.	June 6, 1983	June 8, 1983	Wilmington, NC $25,000

[1] Surety is Protective Ins. Co.
[2] Surety is Employers Ins. of Wausau
[3] Surety is Nationwide Mutual Ins. Co.
[4] Surety is U.S. Fidelity & Guaranty Co.
[5] Surety is Peerless Ins. Co.
[6] Surety is Great American Ins. Co.

BON-3-03

GEORGE C. STEUART
(For Marilyn G. Morrison, Director,
Carriers, Drawback and Bonds Division).

(T.D. 83-148)

Decision Granting Domestic Interested Party Petition Concerning Tariff Classification of Cigarette Leaf Tobacco

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of decision granting domestic interested party petition concerning tariff classification of cigarette leaf tobacco.

SUMMARY: In response to a petition from a domestic interested party concerning the tariff classification of imported cigarette leaf tobacco, Customs invited public comments. The petition requested that cigarette leaf tobacco, which has been processed by threshing, shredding, and other acts of manipulation, be classified under the provision for stemmed cigarette leaf filler tobacco, rather than under the general provision for tobacco, manufactured or not manufactured, not specially provided for.

After further review of the matter and consideration of the comments, Customs has decided to grant the domestic interested party petition.

DATE: Customs change of classification will be effective with respect to all merchandise entered for consumption or withdrawn from warehouse for consumption more than 30 days after the date that notice to the petitioner is published in the Customs Bulletin.

FOR FURTHER INFORMATION CONTACT: Russell X. Arnold, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5727).

SUPPLEMENTARY INFORMATION:

BACKGROUND

In a notice published in the Federal Register on January 4, 1983 (48 FR 366), Customs advised the public that a petition had been filed pursuant to section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), by an American manufacturer of flue-cured tobacco, requesting that certain imported tobacco, which has been machine threshed for use in the manufacture of cigarettes, be classified for tariff purposes as stemmed cigarette leaf filler tobacco under item 170.35, Tariff Schedules of the United States (TSUS, 19 U.S.C. 1202), at a Column 1 rate of duty of 32 cents per pound. The merchandise in question is currently classified under item 170.80, TSUS, as tobacco, manufactured or not manufactured, not specially provided for at a Column 1 rate of duty of 17.5 cents per pound.

The tobacco which is the subject of this petition is machine-threshed tobacco produced by adding moisture to leaf tobacco, mechanically removing the stems, and breaking the remaining tobacco into pieces ranging from ½ inch to 2 inches in size. The resultant product of this processing consists of strips or fragments of tobacco generally used in the manufacture of cigarettes.

In a decision published in the Federal Register on May 20, 1980 (45 FR 33761), Customs determined that this same tobacco was neither scrap tobacco, classifiable under item 170.60, TSUS, nor leaf tobacco, classifiable under item 170.35, TSUS, but that it had been processed to the extent that it was a partially manufactured product classifiable under item 170.80, TSUS.

In the present case, the petitioner contends that Customs current classification of such tobacco is incorrect, has resulted in the avoidance of appropriate tariffs, and has had a serious impact upon producers of domestic flue-cured tobacco. He asserts that the subject tobacco has not been significantly processed toward its end use in cigarette manufacture, and therefore that it is still in leaf form. The petitioner submits that, in the trade, stemmed leaf tobacco includes any leaf product, 81 to 85 percent of which is ½ inch or better in size. He maintains that the TSUS provides for only two types of tobacco, "wrapper" and "filler," and that all tobacco which does not meet the definition of "wrapper" should be treated as "filler." The petitioner further contends that "wrapper" and "filler" are *eo nomine* terms, and since an *eo nomine* provision

overs the article in all of its forms, the shredded leaf is covered by
he filler tobacco provision. He maintains that the term filler to-
acco is more specific than "tobacco, manufactured or not manufac-
ured, not specially provided for," and that since item 170.80,
SUS, is only a catchall classification provision, the subject tobacco
properly classified as stemmed cigarette leaf filler tobacco under
em 170.35, TSUS.

Discussion of Comments

Over one hundred and fifty (150) comments were received in re-
ponse to the petition.

A majority of the comments support the petition. Most of these
atements in support are from farmers and farm group associa-
ons. They emphasize the severe economic hardships suffered by
e domestic growers as a result of the competition resulting from
e large increase in imports.

Comments in opposition to the petition were received from tobac-
importers, dealers and processors. They state that the imported
erchandise is not a leaf tobacco, but is a highly processed prod-
t, which is the end result of a processing which substantially
anges the nature of the original leaf. The idea was also expressed
at a great increase in revenue would not result from an increase
duty on this tobacco, since the importers would switch from im-
rting the shredded tobacco to importing whole leaf, which has a
uch lower rate of duty.

Determination

The subject merchandise is used for the same purpose as the
mmed leaf which is provided for by name in item 170.35, TSUS.
ile the tobacco at issue is smaller than the tobacco leaf that
stoms has traditionally classified as stemmed tobacco leaf, the
uction in size is the result of the modern threshing process used
separate the stem from the more desirable portion of the whole
f. If the stem separation had resulted in two half leaves, there is
doubt that the product would be known as stemmed cigarette
f filler tobacco. The fact that technological progress is utilized
a machine is employed in the separation process should not re-
re a change in tariff classification merely because the resultant
ces of leaf are smaller in size. The fragmented tobacco produced
the mechanical operation is no different in quality, physical
racteristics, or use than the old fashioned stemmed cigarette
accomplished by hand separation. That there is not a material
nge is indicated by the fact that, under an established Customs
ctice, the machine threshed leaf tobacco is considered to have
ergone only a manipulation, not a manufacture, when the oper-
n is performed in a bonded manipulating warehouse. That the
ern mechanical process used to remove the stem from the leaf
results in smaller pieces than half leaves should not control

the classification because there has been no substantial transformation into something which is not stemmed leaf tobacco.

Customs now believes that the fact that the subject tobacco leaf is stemmed mechanically should not preclude classification under the TSUS provision for stemmed cigarette leaf filler tobacco.

There is no compelling basis for departing from this specific provision and classifying the product in a general descriptive provision for tobacco, not specially provided for. Nothing in the legislative history or in judicial decisions issued since 1939, the date when the term cigarette leaf tobacco first appeared in the tariff schedules, mandates that machine threshed tobacco has undergone such advancement that precludes the same classification as other stemmed leaf. It is well settled that if an imported article is described in more than one provision in the TSUS, it must be classified under the provision which most specifically describes it.

Accordingly, Customs concludes that the subject tobacco has not been substantially advanced from the form of a stemmed cigarette leaf filler tobacco, and is therefore correctly classified under item 170.35, TSUS.

This decision will be effective with respect to merchandise entered or withdrawn from warehouse for consumption more than 30 days after the date of publication of this notice in the CUSTOMS BULLETIN.

AUTHORITY

This notice is being published in accordance with section 516(b), Tariff Act of 1930, as amended (19 U.S.C. 1516(b)), and section 175.22(a), Customs Regulations (19 CFR 175.22(a)).

DRAFTING INFORMATION

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: June 9, 1983.

WILLIAM VON RAAB,
Commissioner of Customs.

[Published in the Federal Register, July 12, 1983 (48 FR 31954)]

(T.D. 83-149)

Customhouse Broker's License—Cancellation

Cancellation of Customhouse Broker's License No. 4747.

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C.

Notice is hereby given that the Commissioner of Customs on July 7, 1983, pursuant to section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641), and Part III of the Customs Regulations, as amended (19 CFR Part III), canceled with prejudice the individual customhouse broker's license No. 4747 issued to David R. McIntyre, Houston, Texas for the Customs District of Houston, Texas. The Commissioner's decision is effective as of July 7, 1983.

WILLIAM VON RAAB,
Commissioner of Customs.

[Published in the Federal Register, July 15, 1983 (48 FR 32425)]

(T.D. 83-150)

Bonds

Approval and discontinuance of consolidated aircraft bonds (air carrier blanket bonds), Customs Form 7605

The following consolidated aircraft bonds have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: July 11, 1983.

Name of principal and surety	Date term commences	Date of approval	Filed with district director/area director/amount
erolineas Nicaraguenses, S.A., dba: Aero Nica, Apartado Postal 3688, Managua, Nicaragua; American Motorists Ins. Co.	June 27, 1983	June 29, 1983	New York Seaport $100,000
he foregoing principal has been designated as a carrier of bonded merchandise.			
ineas Aereas Costarricenses, S.A., A/K/A: Lacsa, Apartado 1531, Sa Jose, Costa Rica; American Motorists Ins. Co.	June 8, 1983	June 24, 1983	New York Seaport $100,000

Name of principal and surety	Date term commences	Date of approval	Filed with district director/area director/amount
The foregoing principal has been designated as a carrier of bonded merchandise.			

BON-3-01

Marilyn G. Morrison,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-151)

Bonds

Approval and discontinuance of Carrier's Bonds, Customs Form 3587

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: July 11, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
A.B.C. Express, Inc., P.O. Box 890, Lebanon, TN; motor carrier; The American Ins. Co.	June 13, 1983	June 27, 1983	New Orleans, LA $25,000
B.I. Transportation, Inc., P.O. Box 691, Burlington, NC; motor carrier; Federal Ins. Co.	May 17, 1983	June 16, 1983	Wilmington, NC $25,000
Quincy L. Bryd, Inc., 2027 Anchor Lane, Austin, TX; motor carrier; Washington International Ins. Co.	May 31, 1983	June 24, 1983	Dallas/Fort Worth, TX $25,000
Cavalier Freight, Inc., 5741 Bayside Rd., Virginia Beach, VA; motor carrier; Fidelity & Deposit Co. of MD.	June 3, 1983	June 10, 1983	Norfolk, VA $25,000
Coast Express, Inc., P.O. Box 245, Chino, CA; motor carrier; South Carolina Ins. Co.	Apr. 20, 1983	June 28, 1983	Los Angeles, CA $50,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Contrans, 25 James St., New Haven, CT; motor carrier; Old Republic Ins. Co. (PB 6/24/82) D 6/24/83 [1]	June 14, 1983	June 24, 1983	Bridgeport, CT $25,000
Erie Express, Inc., 690 Nickel Plate Dr., Cleveland, OH; motor carrier; The Ohio Casualty Ins. Co. D 6/28/83	July 15, 1982	July 28, 1982	Cleveland OH $50,000
Freight Management Associates, Inc., d.b.a.: Polar Express, 6719 E. Marginal Way So., P.O. Box 3537, Seattle, WA; motor carrier; Oregon Automobile Ins. Co.	May 26, 1983	June 22, 1983	Seattle, WA $25,000
Hall's Motor Transit Co., 6060 Carlisle Pike, Mechanicsburg, PA; motor carrier; Aetna Casualty & Surety Co. (PB 6/18/79) D 6/17/83 [2]	May 2, 1983	June 18, 1983	Philadelphia, PA $25,000
Harbor Cartage Inc., 312 W. End S., Detroit, MI; motor carrier; Fireman's Fund Ins. Co. (PB 6/18/81) D 6/20/83 [3]	June 18, 1983	June, 20 1983	Detroit, MI $50,000
Ivory, Inc., 1356 Northwest 2nd Ave., Boca Raton, FL; motor carrier; Protective Ins. Co. D 6/23/83	Feb. 15, 1982	Apr. 6, 1982	Baltimore, MD $50,000
K. Emde Trucking, 3835 E. 2nd Ave., Burnaby, B.C., Canada; motor carrier; Royal Globe Ins. Co. D 3/29/83	Jan. 3, 1975	Feb. 3, 1975	Seattle, WA $25,000
Louis J. Kennedy Trucking Co., 342 Schuyler Ave., P.O. Box 506, Kearny, NJ; motor carrier; Ins. Co. of North America	May 31, 1983	June 21, 1983	Newark, NJ $50,000
Matco Transportation, Inc., 3rd St. & Hackensack Ave., So. Kearny, NJ; motor carrier; U.S. Fire Ins. Co. (PB 6/6/68) D 6/15/83 [4]	May 23, 1983	June 15, 1983	Newark, NJ $50,000
Melburn Truck Lines (Toronto) Co., Ltd., P.O. Box 306, Station U, Totonto, Ontario, Canada; motor carrier; Ins. Co. of North America. D 3/12/83	July 2, 1977	Aug. 29, 1977	Buffalo, NY $25,000
Miles Shipping Corp., Inc., 10542 E. Pine, P.O. Box 3661, Tulsa, OK; motor carrier; Old Republic Ins. Co.	Dec. 15, 1982	June 21, 1983	Dallas/Fort Worth, TX $25,000
New World Van Lines, Inc., 5820 N. Clark St., Chicago, IL; motor carrier; Continental Casualty Co.	May 4, 1983	June 27, 1983	Chicago, IL $25,000
O'Neill Brothers Transfer & Storage Co., 706 S.W. Commercial St., Peoria, IL; motor carrier; American Manufacturers Mutual Ins. Co.	Mar. 2, 1983	June 27, 1983	Chicago, IL $25,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Oregon Washington Transport, 3322 N.W. 35th Portland, OR; motor carrier; Reliance Ins. Co. D 6/10/83	Feb. 15, 1968	Mar. 8, 1968	Portland, OR $25,000
Polor Express—See Freight Management Associates, Inc.			
Putnam Transfer & Storage Co., 1502 Wooklawn Ave., Zanesville, OH; motor carrier; The Buckeye Union Ins. Co. D 6/28/83	July 5, 1978	July 24, 1978	Cleveland, OH $50,000
Riley Whittle, Inc., P.O. Box 19038, Phoenix, AZ; motor carrier; Employers Ins. of Wausau. (PB 2/24/81) D 3/24/83 [5]	Mar. 8, 1983	Mar. 25, 1983	Nogales, AZ $25,000
Shale Auto Transport, Inc., 3370 Old Kings Rd., Jacksonville, FL; motor carrier; Reliance Ins. Co.	June 13, 1983	June 17, 1983	Tampa, FL $25,000
Texas-Continental Express, Inc., 2603 W. Blvd., Euless, TX; motor carrier; Ins. Co. of North America. D 6/24/83	Nov. 19, 1977	Dec. 29, 1977	Houston, TX $25,000
Bill Thompson Transport Ltd., RR #3, 462 Talbot, Box 547, St. Thomas, Ontario, Canada; motor carrier; Old Republic Ins. Co.	June 17, 1983	June 20, 1983	Detroit, MI $50,000
Tropical Cartage Corp., 8347 N.W. 36th St., Miami, FL; motor carrier; Investors Ins. Co. of America.	Apr. 25, 1983	June 8, 1983	Miami, FL $25,000
U.S. Distributors, 570-C W. Lambert Rd., Brea, CA; motor carrier; Transport Indemnity Co. (PB 3/9/82) D 2/13/83 [6]	Nov. 17, 1982	Feb. 14, 1983	Los Angeles, CA $50,000

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[1] Surety is Washington International Ins. Co.
[2] Surety is Ins. Co. of North America.
[3] Surety is Sentry Ins. a Mutual Co.
[4] Surety is St. Paul Fire & Marine Ins. Co.
[5] Surety is Great American Ins. Co.
[6] Surety is Aetna Casualty & Surety Co.

BON-3-03

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-152)

Customhouse Cartman's License—Revocation

Revocation of Customhouse Cartman's License Number A-966 issued by the District Director of Customs, Honolulu, to Takashi Brian Uyeno on February 12, 1980.

Notice is hereby given that the Commissioner of Customs on July 15, 1983, pursuant to section 565, Tariff Act of 1930, as amended (19 U.S.C. 1565), and Part 112 of the Customs Regulations, as amended (19 C.F.R. 112), decided to revoke the customhouse cartman's license of Takashi Brian Uyeno, Number A-966, issued on February 12, 1980, in the Honolulu District.

This revocation becomes effective as of July 26, 1983.

William von Raab,
Commissioner of Customs.

(T.D. 83-153)

Approval and discontinuance of consolidated aircraft bonds (air carrier blanket bonds), Customs Form 7605

The following consolidated aircraft bonds have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: July 19, 1983.

Name of principal and surety	Date term commences	Date of approval	Filed with district director/area director/amount
Lineas Aerea de Cobre, S.A., A/K/A Ladeco de Chile, One Biscayne Tower, Suite 2680, Miami, FL; American Casualty Company of Reading PA. The foregoing principal has been designated as a carrier of bonded merchandise	July 8, 1983	July 8, 1983	New York Seaport $100,000
Venezuelan International Airlines (VIASA), 1401 Brickell Ave., Miami, FL; American Casualty Co. of Reading, PA. (PB 3/25/82) D 5/23/83 [1]	May 24, 1983	July 7, 1983	J.F.K. Airport, NY $100,000

Footnote at end of table.

Name of principal and surety	Date term commences	Date of approval	Filed with district director/area director/amount
The foregoing principal has not been designated as a carrier of bonded merchandise.			

[1] Surety is Peerless Ins. Co.

BON-3-01

Marilyn G. Morrison,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-154)

Decision Concerning Domestic Interested Party Petition Requesting Reclassification of Certain Glassware

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of decision on petition.

SUMMARY: This document advises the public of Customs decision with respect to a petition filed by a domestic interested party requesting that certain imported glassware should be classified as "other" glassware, rather than as "specially tempered" glassware, and dutiable at a higher rate. The document provides that six of the nine samples that were the subject of the petition are properly classified as pressed and toughened glassware. However, the other three samples are not pressed and will be reclassified for duty purposes.

DATE: Merchandise identified in this decision as having been classified incorrectly, will be appraised and classified at the rate of duty specified in the decision upon entry for consumption or withdrawal from warehouse for consumption after September 10, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lindmeier, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-2938).

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1981, a petition was filed with Customs under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), by Libbey Glass Division of Owens-Illinois, Inc. ("petitioner"), an American manufacturer of glassware. The petitioner contended that certain glassware imported by J. G. Durand International ("importer") which has been classified under the provision for glassware which is "specially tempered," in item 546.38, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), is not "specially tempered," and thus is properly classifiable under the provisions for other glassware, according to value, in items 546.52 through 546.68, TSUS.

A notice of receipt of the petition was published in the Federal Register on November 12, 1981 (46 FR 55822), advising the public of petitioner's contention and requesting comments on the petition. A notice of extension of time for comment was published in the Federal Register on December 7, 1981 (46 FR 59690).

DISCUSSION OF COMMENTS AND ISSUES

Of the 37 comments received in response to the notice, 34 expressed general approval of the petition and requested its adoption.

Counsel for the petitioner submitted a comment which asserted the following:

1. The meaning to be ascribed to the term "specially tempered" in item 546.38, TSUS, is the same as that of identical language in item 544.31, TSUS;

2. Glassware which is merely tempered is not properly classified under item 546.38, TSUS; to be classified thereunder, the glassware must be "specially tempered";

3. Item 546.38, TSUS, requires the merchandise to be pressed; the Durand Grand Vin glasses are not pressed. Other plates made by Durand appear to be produced by centrifugal forming, rather than by being pressed; and

4. Only a breakage test can be used to determine if glassware is tempered enough to be "specially tempered".

Counsel for the importer submitted a comment which stressed the following:

1. Petitioner does not possess standing to file this petition because it is not a manufacturer of tempered glassware of the same class or kind as the tempered glassware of the importer; and

2. The breakage test referred to in Internal Advice (IA) 76/136 is not the sole determinant of whether glass is "toughened (specially tempered)". That breakage test is a test appropriate for flat glass used in vehicle glazing. Although the legislative history, Brussels Tariff Nomenclature, and IA 76/136, do not mention properties of specially tempered glass other than its propensity to shatter upon impact, other tests are useful to determine if glass is specially tempered. Tempered glass exhibits physical changes which are not discernible from an impact test. The test used to determine if flat glass is tempered, is not a test which is properly used as the exclusive test for household drinking glasses because:

a. The shape, thickness, and thermal co-efficient of expansion affect the pattern of breakage of this glass. Thus, a tempered drinking glass because of its shape and thickness may not break into a great many small, round-edged pieces.

b. The meaning of the term "specially tempered" in item 546.38, TSUS, is not the same as the meaning of the same term in item 544.31, TSUS, because item 544.31 describes glass which is very different from the glass in item 546.38.

c. By enacting the TSUS, Congress intended item 546.38, TSUS, to cover glassware which was fully and purposely tempered. "Fully" connotes an article which is tempered throughout.

d. A polariscopic examination of the glass household articles could be used instead of the breakage test in IA 76/136. The polariscopic examination is preferable because it would yield more uniform, easily-administered results.

One other commenter submitted a comment which opposed the petition for the reasons stated below:

1. Since 1962, J.G. Durand & CIE. has exported transparent, molded, and toughened glassware under the name "Arcoroc" and since 1981, the importer has entered opaque, molded, and toughened glassware under the name "Arcopal Restaurant". Each of these types of glass is manufactured by a process to increase its mechanical strength and thermal shock resistance and each type meets the definition of tempered glass embodied in American Society of Testing Materials (ASTM) designation C162-71;

2. The test presently used by Customs, stated in IA 76/136 uses breakage as the sole criterion by which to determine if glass is "specially tempered". Breakage is not the only proper criterion to be used to determine if glass is "specially tempered"; and

3. IA 76/136 indicates that the term "toughened (specially tempered)" denotes a glass which disintegrates into small, round-edged pieces, a test derived from the Explanatory Notes to Heading 70.08 of the Customs Co-operation Council Nomenclature (CCCN). This is incorrect because Heading 70.08 is restricted to flat glass used in doors and autos.

The comments seem to highlight several issues:

—Whether the petitioner has standing to request a reclassification of the subject merchandise;

—The proper definition of the term "toughened (specially tempered)";

—Whether the breakage test embodied in IA 76/136 is the only test to be used to determine if the subject glassware is "pressed and toughened (specially tempered)"; and

—The proper definition of the term "pressed".

In the July 31, 1981, petition, Customs has been requested to determine that nine pieces of imported beverage glassware—Grand Vin (Super Cuvee, Super Savoie, Super Ballon), Artic Stemware (Champagne, Wine, Goblet), and Artic Tumblers (Old Fashioned, Hi Ball, Beverage)—are not properly classified under item 546.38, TSUS. Petitioner's counsel has submitted arguments and breakage tests on each of those nine pieces and other imported glassware as well. Because the scope of the inquiry is defined by the July 31 petition, we will not consider the classification of glassware which is not described in the petition.

Standing

To come within the language of 19 U.S.C. 1516, the petitioner must demonstrate that the merchandise he produces, manufactures or sells is the same class or kind of merchandise as that which is imported. *The Diamond Match Company* v. *United States (Winter Wolff & Co., Inc., Party in Interest),* 45 Cust. Ct. 198, C.D. 2223 (1960); *Star-Kist Foods, Inc.* v. *United States (Bruno Scheidt, Inc., Party in Interest),* 37 Cust. Ct. 171, C.D. 1819 (1956); and *The Golding-Keene Company, The Feldspar Corporation* v. *United States (E. Dillingham, Inc., a/c Rheem Mfg. Co., Party in Interest)* 44 Cust. Ct. 169, C.D. 2172 (1960).

In *Golding-Keene,* supra, the court stated that the class or kind refers to "* * * merchandise * * * sold to the same class of purchasers and * * * used for the same purpose.", at page 173. Customs is satisfied that petitioner's glassware meets that test. Accordingly, petitioner has standing to request a reclassification of the imported merchandise.

Pressed and Toughened (Specially Tempered)

The second issue concerns the proper definition of the phrase "pressed and toughened (specially tempered)". Counsel for the petitioner contends that three of the original nine beverage containers are not "pressed", as evidenced by the fact that each possesses a bulbous portion which is larger than the mouth of the beverage ware, a physical impossibility for pressed glass.

That issue (whether the glass is "pressed") will be discussed below. Counsel also contends that none of the nine beverage containers is "toughened (specially tempered)" because none of them meets the standard for "toughened (specially tempered)" glassware set forth in IA 76/136. Counsel for the importer and another commenter joined this latter issue, contending, *inter alia,* that (1) the beverage ware meets the definition of tempered glass in ASTM designation C162-71, (2) the meaning to be ascribed to the term "toughened (specially tempered)" is not the same as that to be ascribed to the same term in item 544.31, TSUS, and (3) the test in IA 76/136 should not be utilized as the sole determinant of whether an article is "toughened (specially tempered)".

Customs believes that the language in item 546.38, TSUS, is subect to interpretation.

In *Nippon Kogaku (USA), Inc.* v. *United States,* Appeal No. 81-29, February 25, 1982 (Cust. Bull., V. 16, No. 11, pp. 104, 108) the Court of Customs and Patent Appeals was faced with the question of whether a slit lamp microscope was excluded from a tariff proviion by a superior heading which excludes microscopes from the provision. In that case, the court stated:

> While we are mindful of the Supreme Court's direction that extraneous aids, such as legislative history, "are only admissible to solve doubt and not to create it" (cite omitted), we note that the "plain meaning" of the word "microscope" in headnote 1 (ii) contributes little to our understanding of whether Congress intended to exclude all ophthalmic instruments including a combination of enlarging lenses from classification under item 709.05 as ophthalmic instruments.
>
> As the Supreme Court has noted, most recently in *Train* v. *Colorado Public Interest Research Group, Inc., et al.* 426 U.S. 1, 10 (1975):
>
>> "When aid to construction of the meaning of words, as used in the statute, is available, there certainly can be no 'rule of law' which forbids its use, however clear the words may appear on 'superficial examination'." *United States* v. *American Trucking Assns.*, 310 U.S. 534, 543-544 (1940) (footnotes omitted). See *Cass v. United States*, 417 U.S. 72, 77-79 (1974). See generally Murphy, Old Maxims Never Die: The "Plain Meaning Rule" and Statutory Interpretation in the "Modern" Federal Courts, 75 Col. L. Rev. 1299 (1975).
>
> We, therefore, find no impediment to review of extrinsic aids to determine the intended scope of the involved classification provision.

Similarly, Customs believes that a review of extrinsic aids is proper to determine the proper meaning of the term "toughened (specially tempered)". Several sources are properly consulted to arrive at the meaning to be ascribed to a tariff provision, including lexicographic sources and legislative history.

According to Webster's Collegiate Dictionary "temper" possesses several meanings: one is "a suitable proportion or balance of qualities * * *, the state of a substance with respect to certain desired qualities"; and "specially" refers to the quality of being special, defined as "distinguished by some unusual quality; esp; being in some way superior * * * readily distinguishable from other of the same category; UNIQUE * * * being other than the usual: ADDITIONAL, EXTRA." "Toughen" is defined as to make tough. In turn "tough" is defined as "strong or firm in texture but flexible and not brittle * * * not easily chewed * * * capable of enduring strain, hardship, or severe labor." Taken together the three terms indicate that the glassware must be stronger than annealed glassware. The fact that the term is "specially tempered" rather than merely "tempered" lends credence to the view that "specially tempered" is interpreted differently than "tempered". This view is supported not only by the definitions of the words, but also by the presumption that each term of a provision has meaning, and that no term is superfluous. Customs also believes that this view is supported by legislative history.

The Tariff Classification Study, C.I.E. 1/64 dated January 2, 1964 Volume 1), at pages 387-8, states in reference to item 544.31, SUS, a provision for tempered glass:

> Item 544.31 is a new provision. It covers specially tempered glass that is more resistant to shock than ordinarily tempered glass, and, when broken, disintegrates into small rounded-edge pieces, rendering it particularly adaptable to vehicle glazing. Somewhat lower in cost than laminated glass, it is extensively used as a substitute for laminated glass in the glazing of automobiles. It is currently dutiable under paragraph 230(d) if plain, and under paragraph 218(f) if colored. The proposed rate of duty of 22 percent is a weighted average of estimated current imports.

Thus, the meaning of "specially" can be interpreted in one of ree ways. It may refer to (1) increasing the strength of the tem- ered portions of the glass; (2) increasing the area of the temper self so that each portion of the glass is tempered, or (3) increasing ne amount of the temper and increasing the area of the glassware mpered so that each portion of the glassware has the increased rength and dicing pattern of breakage, characteristic of tempered lass.

Customs is of the opinion that the first view above enunciates ne correct standard for a glass properly classified under item 14.31, TSUS. Heading 70.08 of the Customs Co-operation Council omenclature (CCCN) appears to support this interpretation.

The question then becomes whether item 546.38, TSUS, and item 14.31, TSUS, are *in pari materia*. If they are, the phrase "tough- ned (specially tempered)" in item 546.38 should be interpreted the ame as identical language in item 544.31.

According to counsel for the importer, the meaning of the lan- uage in item 546.38 is different from the meaning of identical lan- uage in item 544.31. Allegedly, item 544.31 describes glass which different from the glass described in item 546.38. Thus the provi- ons are not *in pari materia*.

Customs rejects this theory. Item 546.38, TSUS, the provision nder consideration, is not mentioned as a tempered glassware pro- sion in the Tariff Classification Study:

> Items 546.11 through 546.57—These items provide for glassware used in the household or elsewhere for preparing, serving, or storing food or beverages, now dutiable in paragraphs 218(d), (f) and (g) and 230(d); other household glassware articles (excluding principally illuminating articles), not specially provided for.* * * (at page 391)

However, each of these provisions was enacted as part of the ariff Classification Act of 1962, Pub. L. 87-456. Sturm, *A Manual Customs Law* (1976), states at page 168, "The provisions of the SUS) must be considered *in pari materia*." See *e.g.*, *Venetianaire*

Corp. of America v. *United States*, 60 CCPA 75, 78, C.A.D. 1084, 470 F.2d 1047 (1973).

> Additionally, the Tariff Classification Study states: The proposal divides the glassware into four general categories—categories *based on the character of the glass itself:* * * *. (emphasis added) (at page 391)

Customs believes that this language, coupled with the statement in Sturm, above, indicates that items 546.38 and 544.31 are *in pari materia,* and further that the meaning ascribed to the phrase "toughened (specially tempered)" in item 544.31 should be the same as the meaning of the same phrase in item 546.38. Thus, glass classified under item 546.38 also must dice when broken.

Admittedly, the glass in item 546.38 is used to serve food and beverages and is curved. It may be distinguished on that basis. However, Customs does not believe that a distinction is proper in this case. Such a distinction obscures the fact that both provisions describe glass and that the relevant question concerns the physical characteristic of the glass itself, not its use.

The Breakage Test

In IA 76/136, Customs enunciated the test which it uses to determine if an article is "toughened (specially tempered)."

> An annealed (item) * * * should normally break into a small number of larger pieces, say ten or less (frequently as low as three to five): A tempered disk will break into a large number of pieces the number of which depends upon stress magnitude and distribution. If highly stressed the glass will "dice" *i.e.*, break into a large number of small, rather uniformly shaped pieces.

Counsel for the importer contends that the standard is incorrect, apparently because he believes that the language requires toughened glass to dice, such that each portion of the glass breaks into pieces, all of which are small and round-edged. In turn, petitioner joins the issue, stating that each portion of the imported glassware must dice. Because it does not, it is not toughened. Importer's counsel relies upon a 1977 edition of the *American National Standard Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways,* published by the American National Standards Institute.

Customs has studied the samples submitted by petitioner's counsel. This glassware is used in the household. Thus, Customs recently conducted several tests on six of the samples (designated "Artic Stemware", to include "Champagne", "Wine", and "Goblet", and "Artic Tumblers", to include "Old Fashioned", "Hi Ball", and "Beverage"). These tests were designed to simulate the conditions under which household glassware is used. The samples were subjected to three tests, in addition to the breakage test described in IA 76/136

> * * * A "thermal shock" and a "counter fall" test were performed on multiple samples of all styles and an additional "nesting" test was applied to the tumblers. The thermal shock test consisted of pouring boiling water into the glass. The nesting test, which was only applied to the tumblers, consisted of stacking glasses as one might for cupboard storage. The counter fall test simulated the accidental knocking of a glass off a kitchen counter.

According to the laboratory report, "None of the imported test samples broke, chipped, or cracked when subjected to thermal shock or nesting. Nearly all of the tumblers survived the counter fall test, while half of the stemware also survived this test."

For purposes of comparison, a quantity of other glassware was purchased and tested. The laboratory report continues:

> By comparison, we evaluated the domestic glassware (both tumblers and stemware) as being resistant to breakage but less resistant than the imported glassware. All domestic glassware tested survived the thermal shock and nesting tests. * * * a higher percentage of tumblers and stemware broke during the counter fall test. Also, considerably less force was required to cause breakage by the center punch test.

Customs has not tested any samples of the Grand Vin Super Savoie or Super Ballon glasses. Subject to this caveat, and with the exception noted below, Customs is satisfied that the samples tested at Customs Headquarters as well as the samples of the glassware illustrated in Attachment 1B of petitioner's July 31, 1981, request to initiate this action are all "toughened (specially tempered)". Although shards of glass as well as the small, round-edged pieces characteristic of a diced glass are present when a sample of glass is broken, Customs is satisfied that this does not preclude the glassware from being "toughened (specially tempered)". This view is supported by page 4 of IA 76/136. There it is stated that the second sample of the merchandise that was the subject of the IA was considered tempered, even though not all of it diced when broken. This view is further supported by the fact that the shape and thickness of the glassware affect the pattern of breakage. These samples are not flat and do vary in thickness from one sample to another and from one portion to another portion of the same article. Accordingly, Customs believes that they are "toughened (specially tempered)", even though they do not break into a large number of small, round-edged pieces without the presence of any shards. The other test results (thermal shock, nesting and counter fall) do not conflict with this conclusion. As to the Grand Vin Super Cuvee, no portion of the sample diced when it was broken.

Pressed

One issue remains. Have the three samples identified as Grand Vin by petitioner, been "pressed"? As stated earlier, petitioner's counsel contends that they are not because the mouth of the stemware is smaller than the largest portion of the inside diameter of the stemware. In an August 16, 1982, letter counsel for the importer concedes that each type of the Grand Vin glassware is not pressed. Customs considers this concession to be determinative of the issue.

DECISION ON PETITION

In accordance with the foregoing, Customs has determined that the petition should be granted in regard to the imported glassware designated "Grand Vin", to include "Super Cuvee", "Super Savoie", and "Super Ballon", as that glassware is not pressed. In addition, the "Super Cuvee" did not dice when broken. That merchandise is properly classified under the provisions for other glassware, according to value, in items 546.52 through 546.68, TSUS.

However, as to the imported glassware designated "Artic Stemware", to include "Champagne", "Wine", and "Goblet", and "Artic Tumblers", to include "Old Fashioned", "Hi Ball", and "Beverage", the petition is denied. That merchandise has been properly classified under the provision for glassware which is "pressed and toughened (specially tempered)" in item 546.38, TSUS.

AUTHORITY

This notice is published under the authority of sections 516 (b) and (c), Tariff Act of 1930, as amended (19 U.S.C. 1516 (b), (c)), and section 175.22, Customs Regulations (19 CFR 175.22).

DRAFTING INFORMATION

The principal author of this document was Todd J. Schneider, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: July 20, 1983.

WILLIAM VON RAAB,
Commissioner of Customs.

[Published in the Federal Register July 25, 1983 (48 FR 33792)]

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19 CFR Part 134

(T.D. 83-155)

Customs Regulations Amendments Relating to Country of Origin Marking

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

UMMARY: This document amends the Customs Regulations to es-
blish certification requirements for importers with respect to the
untry of origin marking of certain articles repacked in the
nited States after release from Customs custody. This change re-
iires importers to certify to the district director having custody of
e articles that: (a) If the importer does the repacking, the new
ntainer must be marked in accordance with applicable law and
gulations; or (b) if the article is sold or transferred, the importer
ust notify the subsequent purchaser or repacker, in writing, at
e time of sale or transfer, that any repacking of the article must
nform to the marking requirements. The purpose of this change
to ensure that an ultimate purchaser in the United States is
are of the country of origin of the imported article.

FECTIVE DATE: October 24, 1983.

)R FURTHER INFORMATION CONTACT: Anthony L. Piazza,
try Procedures and Penalties Division, U.S. Customs Service,
01 Constitution Avenue NW., Washington, D.C. 20229 (202-566-
68).

IPPLEMENTARY INFORMATION:

BACKGROUND

Section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), pro-
les that, unless expressly excepted, every article of foreign origin
its container) imported into the United States shall be marked
a conspicuous place as legibly, indelibly, and permanently as the
icle or container will permit, in such manner as to indicate to
ultimate purchaser, the English name of the country of origin of
article.

Part 134, Customs Regulations (19 CFR Part 134), sets forth the
intry of origin marking requirements and the exceptions of 19
S.C. 1304. The general exceptions to marking are contained in 19
S.C. 1304(a)(3) and section 134.32, Customs Regulations.

Among the exceptions to the country of origin marking require-
nts are: (1) Articles which the Secretary of the Treasury, pursu-
to public notice published in the Treasury Decisions before
y 1, 1937, determined "were imported in substantial quantities
ing the 5-year period immediately preceding January 1, 1937,
were not required during such period to be marked to indicate
ir origin" * * * (19 U.S.C. 1304(a)(3)(j)). The full list of articles
epted from the marking requirements under 19 U.S.C.
4(a)(3)(j) is set forth in section 134.33, Customs Regulations, re-
ed to as the "J-list"; and (2) articles which are incapable of
ng marked (19 CFR 134.32(a)).

enerally, whenever an article is excepted from the marking re-
rements, the container or holder in which the article reaches
ultimate purchaser is required to be marked to indicate the

country of origin of the article whether or not the article itself is marked (19 U.S.C. 1304(b)).

The "ultimate purchaser", as defined in section 134.1, Customs Regulations, is generally the last person in the United States who will receive the article in the form in which it was imported. It is not feasible to state who will be the ultimate purchaser in every circumstance. However, the following examples may be helpful:

(1) If an imported article will be used in manufacture, the manufacturer may be the ultimate purchaser if he subjects the imported article to a process which results in a substantial transformation of the article, even though the process may not result in a new or different article.

(2) If the manufacturing process is merely a minor one which leaves the identity of the imported article intact, the consumer or user of the article, who obtains it after the processing, will be regarded as the ultimate purchaser.

(3) If an article is to be sold at retail in its imported form, the purchaser at retail is the ultimate purchaser.

When an article is imported in the container in which it will reach the ultimate purchaser it is relatively simple for Customs to determine the sufficiency of the country of origin marking. However, a problem exists with J-list articles, and articles incapable of being marked, which are imported in bulk and repacked in the United States by the importer or a subsequent purchaser after release from Customs custody. In these cases, while the container in which the article is imported is usually marked, the container in which the article is repacked for sale to an ultimate purchaser is frequently not. Although the problem appears to be greatest involving steel wire rope, it also involves numerous other articles whose containers are required to be marked.

To minimize the practice of not disclosing country of origin information on the new containers, by notice published in the Federal Register on September 10, 1982 (47 FR 39866), Customs proposed a procedure to require importers of repacked J-list articles, and articles incapable of being marked, to certify to the district director having custody of the articles that: (a) If the importer repacks the article, he shall do so in accordance with the marking requirements; or (b) if the article is sold or transferred, the importer shall notify the subsequent purchaser or repacker, in writing, at the time of sale or transfer, that any repacking must conform to these requirements.

At present, repacked articles do not come under Customs scrutiny because Customs and the Treasury Department have taken the position (based on a restrictive interpretation of 19 U.S.C. 1304) that the statute applies only to articles or their containers at the time of importation. However, this position, and Customs lack of enforcement of the marking requirements after articles are released from Customs custody, has resulted in many articles reach-ng the ultimate purchaser in unmarked containers, which other- ise should have been marked. Rather than permitting the repack- ng rationale to serve to frustrate the clear intent of the statute .e., to notify an ultimate purchaser of an article's foreign origin), ustoms seeks to enforce the statute with respect to repacked arti- les by applying the rationale in *U.S. Wolfson Bros. Corp.* v. *United tates,* 52 CCPA 46, C.A.D. 856 (1965). In that case the court held hat if the article will not reach the ultimate purchaser in the con- ainer in which it is imported, then Customs cannot find the mark- ng of the imported container to satisfy the requirement of the stat- te.

Discussion of Comments

Over twelve hundred and fifty (1,250) comments were received in esponse to the notice of September 10, 1982. Approximately twelve undred (1200) commenters favored the proposal; fifty (50) or so op- osed it on various grounds. Several commenters made suggestions hat Customs believes would increase the effectiveness of the pro- osal and reduce the administrative burden for Customs and im- orters.

The commenters favoring the proposal argued that the present egulations fail to implement effectively the purpose of 19 U.S.C. 304. They commented that if the change is adopted it will be of aramount importance in providing country of origin information o ultimate purchasers, and will reduce the incidences of fraudu- ent and deceptive practices which have led to unfair competition n many cases.

A commenter representing the Hand Tools Institute, an associa- ion consisting of domestic producers of hand tools, suggested that he proposal not be limited to overcoming difficulties which have ttended the repacking of unmarked articles, but should also re- olve marking problems with respect to the packing and repacking f marked articles, especially where the marking on the article is oncealed. For example, various foreign-made tools are entering he United States in bulk, properly marked with the country of rigin marking. Once in the United States however, these tools are epacked in such a way to conceal the country of origin marking by lacing the items face down in sealed, unmarked blister packs. To orrect this problem, the commenter suggested that the certifica- ion include language that "any packing or repacking must not ob- cure or conceal the country of origin information appearing on the rticles, or else the outermost container must be marked in accord- nce with the applicable law or regulation".

Customs believes that this suggestion constitutes a major change o the proposal, which is limited to unmarked articles. Such a hange would require additional notice to the public and an oppor- unity to comment before being adopted. Accordingly, a separate otice will be published in the Federal Register soliciting public comment on the concealment of marking problem as it relates to the repacking of marked articles.

A second commenter suggested allowing the importer to file with the district director at each port where the article is entered a blanket certification to cover all importations of that article for a given period (e.g., calendar year), rather than requiring a certification for each entry filed.

Customs has adopted this modification because it will greatly reduce the paperwork burden for importers.

A third commenter argued that to require a certification broadly for every repacked article would sweep in many products not intended to be covered by the law and regulations. Therefore, it was suggested that the words "and not subject to an exemption under the act or regulations" be inserted after the word "possession" in the first sentence of the proposed certification, to minimize the situation.

Customs also agrees with this suggestion and has modified the certification to include similar exempting language.

Certain opposing commenters apparently misinterpreted the proposal. They stated that it requires the importer "to ensure that repackers correctly mark each individual package."

The only obligation that an importer has with respect to repackers is to notify them that the country of origin information is required on the new package.

Other opposing commenters claimed that the proposal involves the establishment of a non-tariff trade barrier.

The mere certification that an importer will abide by the marking law, which binds the importer in any event, does not prevent or otherwise restrict importations. It merely ensures an importer's compliance with a rule that now imposes sanctions for its violation.

One commenter opposed the proposal upon grounds that similar requirements are not imposed on domestic industry and its products. The Congress in its wisdom saw fit to require country of origin marking only on articles that are produced in foreign countries. The fundamental objectives of country of origin marking legislation, since the first enactment appeared as section 6 of the Tariff Act of 1890, has been to notify an ultimate purchaser of an article's foreign origin before determining whether to buy the article or its domestic counterpart. This choice was provided in large part because Congress recognized that if given a choice, consumers prefer domestic goods. The failure to provide country of origin information on foreign articles or their containers prevents consumers from exercising this right.

Many domestic food processors objected that labeling requirements would be prohibitive. Customs believes that most of the products concerned will be substantially transformed and therefore will not be subject to the rule. The regulation is intended to apply to articles which are repacked after importation but not to articles substantially changed by manufacture or processing which results in an article having a name, character, or use differing from that of the imported article. For example, meat imported in 60-pound boxes would have to carry country of origin labeling as long as it remained physicially in the form in which it is imported, even if repacked in smaller size containers. However, if such meat is further processed or combined with other products to make ground beef or other consumer meat products, the processor, as the ultimate purchaser of the meat in the form in which it was imported, would not be responsible for continued country of origin labeling.

Another commenter opposed the certification requirement upon grounds that the Federal Trade Commission (FTC) has the authority to compel marking after articles are imported.

Customs does not believe the rule impinges upon the authority of the FTC. Nothing in the law or regulations should be construed as excepting any article (or its container) from the particular requirements of marking provided for in any other provision of law, such as those of the FTC, Food and Drug Administration, and other such agencies. The certification merely attaches sanctions to obligations which already exist under 19 U.S.C. 1304 and Part 134, Customs Regulations. The case cited by the commenter, *L. Heller & Son* v. *Federal Trade Commission*, 191 F. 2d 954 (7th Cir. 1951), is inapposite for the proposition that seeks to bar Customs from promulgating the rule. The court recognized that the two statutes, 19 U.S.C. 1304 and section 5 of the Federal Trade Commission Act, are not repugnant. The court stated that 19 U.S.C. 1304 was "concerned solely with the extent to which the Treasury Department, incidentally to its collection of Customs duties, should regulate the labeling of imported goods."

A commenter for the steel importing community challenged the measure as beyond the jurisdiction of Customs. The point is made that articles entering the domestic commerce after clearing Customs are not susceptible to continuing regulation by Customs.

Clearly, the Secretary of the Treasury has power to attach conditions to any exemption in order to carry out Congressional intent and prevent subversion of the marking statute. As such, the Secretary has announced the certification process as a framework for obtaining compliance with the statute.

A commenter representing a foreign meat producer claimed that the proposed rule is inconsistent with the General Agreement on Tariffs and Trade (GATT).

This is incorrect as the marking statutes antedated the GATT and were not repealed thereby.

Section 134.34, Customs Regulations, provides that an exception from marking under section 134.32(d), Customs Regulations, may be authorized in the discretion of the district director for articles which are repacked after leaving Customs custody and the containers will be marked. One commenter believed that the proposal, if adopted, should supersede the discretionary exemption in section 134.34.

Customs agrees. Since, unless expressly excepted, the marking of the new containers will be mandatory, section 134.34 will be removed.

Customs recognizes that the change will not eliminate all marking problems. However, we are convinced that it is a proper response to an increasing administrative burden. We are hopeful that it will strike a balance between administrative concern for compliance with the marking statute and the desire of interested parties to understand the parameters of their responsibility for satisfying country of origin marking requirements.

Many commenters stated their views on the rule's applicability to specific articles. However, Customs obviously cannot in this document answer all of the questions raised in this context. Such questions should be submitted to the Director, Entry, Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, in accordance with the ruling procedures set forth in Part 177, Customs Regulations (19 CFR Part 177).

After consideration of the comments and further review of the matter, it has been determined to adopt the proposal, with the changes noted above. However, rather than amending section 134.22 as proposed, a new section 134.25 is being added to Part 134 to deal more specifically with the marking of containers of repacked articles which are the subject of this rule.

EXECUTIVE ORDER 12291

It has been determined that this document does not contain a "major rule" requiring preparation of a regulatory impact analysis under Executive Order 12291.

REGULATORY FLEXIBILITY ACT

It is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this rule will not have a significant economic impact on a substantial number of small entities.

DRAFTING INFORMATION

The principal author of this document was Jesse V. Vitello, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service (202-566-8237). However, personnel from other Customs offices participated in its development.

LISTS OF SUBJECTS IN 19 CFR PART 134

Customs duties and inspection, imports, importers, labeling, packaging, and containers.

AMENDMENTS TO THE REGULATIONS

Part 134, Customs Regulations (19 CFR Part 134), is amended as set forth below.

ALFRED R. DE ANGELUS,
Acting Commissioner of Customs.

Approved: July 18, 1983.
ROBERT E. POWIS,
Acting Assistant Secretary of the Treasury.

[Published in the Federal Register, July 26, 1983 (48 FR 33860)]

PART 134—COUNTRY OF ORIGIN MARKING

1. Part 134, Customs Regulations (19 CFR Part 134), is amended by adding a new section 134.25 to read as follows:

§ 134.25 Containers or holders for repacked J-list articles and articles incapable of being marked.

(a) *Certification requirements.* If an article subject to these requirements is intended to be repacked in new containers for sale to an ultimate purchaser after its release from Customs custody, or if the district director having custody of the article, has reason to believe such article will be repacked after its release, the importer shall certify to the district director that: (a) If the importer does the repacking, the new container shall be marked to indicate the country of origin of the article in accordance with the requirements of this Part; or (b) if the article is intended to be sold or transferred to a subsequent purchaser or repacker, the importer shall notify such purchaser or transferee, in writing, at the time of sale or transfer, that any repacking of the article must conform to these requirements. The importer, or his authorized agent, shall sign the following statement.

CERTIFICATE OF MARKING—REPACKED J-LIST ARTICLES AND ARTICLES INCAPABLE OF BEING MARKED

(Port of entry) ——————————

I, —————————— of ——————————, certify that if the article(s) covered by this entry (entry no.(s) ———— dated ————), is (are) repacked in a new container(s), while still in my possession, the new containers, unless excepted, shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the container(s) will permit, in such manner as to indicate the country of origin of the article(s) to the ultimate purchaser(s) in accordance with the requirements of 19 U.S.C. 1304 and 19 CFR Part 134. I further certify that if the article(s) is (are) ntended to be sold or transferred by me to a subsequent purchaser or repacker, I will notify such purchaser or transferee, in writing, at the time of sale or transfer, of the marking requirements.

Date ————————

Importer ————————

The certification statement may appear as a typed or stamped statement on an appropriate entry document or commercial invoice, or on a preprinted attachment to such entry or invoice; or it may be submitted in blanket form to cover all importations of a particular product for a given period (e.g., calendar year). If the blanket procedure is used, a certification must be filed at each port where the article is entered.

(b) *Facsimile signatures.* The certification statement may be signed by means of an authorized facsimile signature.

(c) *Time of filing.* The certification statement shall be filed with the district director at the time of entry summary. If the certification is not available at that time, a bond shall be given for its production in accordance with section 141.66, Customs Regulations (19 CFR 141.66). In case of repeated failure to timely file the certification required under this section, the district director may decline to accept a bond for the missing document and demand redelivery of the merchandise under section 134.51, Customs Regulations (19 CFR 134.51).

(d) *Notice to subsequent purchaser or repacker.* If the article is sold or transferred to a subsequent purchaser or repacker the following notice shall be given to the purchaser or repacker:

NOTICE TO SUBSEQUENT PURCHASER OR REPACKER

These articles are imported. The requirements of 19 U.S.C. 1304 and 19 CFR part 134 provide that the articles or their containers must be marked in a conspicuous place as legibly, indelibly and permanently as the nature of the article or container will permit, in such a manner as to indicate to an ultimate purchaser in the United States, the English name of the country of origin of the article.

(e) *Duties and Penalties.* Failure to comply with the certification requirements in paragraph (a) may subject the importer to a demand for liquidated damages under section 134.54(a) and for the additional duty under 19 U.S.C. 1304. Fraud or negligence by any person in furnishing the required certification may also result in a penalty under 19 U.S.C. 1592.

2. Part 134 is further amended by removing section 134.34.

(R.S. 251, as amended (19 U.S.C. 66), section 304, 624, 46 Stat. 731 as amended, 759 (19 U.S.C. 1304, 1624), 77A Stat. 14 (19 U.S.C. 1202)).

19 CFR Part 148

(T.D. 83-156)

Customs Regulations Amendment Concerning Public International Organizations

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to conform to an executive action taken by the President. The document adds the African Development Bank to the list of public international organizations entitled to enjoy the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act.

EFFECTIVE DATE: July 28, 1983.

FOR FURTHER INFORMATION CONTACT: Richard M. Goodman, Office of the General Counsel, Department of the Treasury, Washington, D.C. 20220 (202-566-8427).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to keep its regulations current, the Customs Service has determined that a recent executive action requires a conforming amendment to a part of the Customs Regulations (Chapter I, Title 19, Code of Federal Regulations (19 CFR Chapter I)).

Discussion of Change

On February 8, 1983, President Reagan signed Executive Order 12403 which designated the African Development Bank as a public international organization entitled to enjoy the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act, 22 U.S.C. 288 *et seq.*

Section 148.87(b), Customs Regulations (19 CFR 148.87(b)), lists the public international organizations currently entitled to free entry privileges under the Act. To keep the list current, section 148.87(b) is being amended to add the African Development Bank to the list of designated organizations.

Executive Order 12291

Because this amendment will not result in a "major rule" as defined by section 1(b) of E.O. 12291, the regulatory analysis and review prescribed by section 3 of the E.O. is not required.

INAPPLICABILITY OF REGULATORY FLEXIBILITY ACT

This document is not subject to the provisions of sections 603 and 604 of title 5, United States Code, as added by section 3 of Pub. L. 96-354, the "Regulatory Flexibility Act." That Act does not apply to any regulation, such as this, for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551, *et seq.*), or any other statute.

DRAFTING INFORMATION

The principal author of this document was Jesse V. Vitello, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

LIST OF SUBJECTS IN 19 CFR PART 148

International organizations.

AMENDMENT TO THE REGULATIONS

Part 148, Customs Regulations (19 CFR Part 148), is amended as set forth below.

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

Section 148.87(b) is amended by inserting "African Development Bank" before "African Development Fund" in the column headed "Organization", "12403" in the opposite column under the heading "Executive Order", and "February 8, 1983" in the opposite column under the heading "Date".

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624)).

DONALD F. KELLY,
Acting Commissioner of Customs.

Approved: July 5, 1983.
JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, July 28, 1983 (48 FR 34256)]

(T.D. 83-157)

Approval and discontinuance of Carrier's Bonds, Customs Form 3587

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: July 22, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
AAA Cartage, Inc., 5938 So. 13th St., Milwaukee, WI; motor carrier; Fidelity and Deposit Co. of MD (PB 4/22/75) D 6/26/83 [1]	June 27, 1983	June 27, 1983	Milwaukee, WI $25,000
ABC Transfer & Delivery, Inc., 700 N.W. 5th Ave., Portland, OR; motor carrier; United Pacific Ins. Co.	Nov. 30, 1982	Dec. 7, 1982	Portland, OR $25,000
Action Airfreight, Inc., 5980 Inkster, Romulus, MI; motor carrier; Great American Ins. Co.	June 9, 1983	June 27, 1983	Detroit, MI $50,000
Arkansas-Best Freight System, Inc., 1000 South 21st St., Fort Smith, AR; motor carrier; St. Paul Fire & Marine Ins. Co. (PB 6/10/81) D 7/7/83 [2]	June 9, 1983	July 7, 1983	New Orleans, LA $25,000
Ascot Trucking Corp. (an IL Corp.), 141-453 N. May, Chicago, IL; motor carrier; Ohio Casualty Ins. Co. (PB 6/6/79) D 7/11/83 [3]	June 6, 1983	July 11, 1983	Chicago, IL $35,000
B & P Motor Express Co., P.O. Box 13508, Tampa, FL; motor carrier; Reliance Ins. Co	May 4, 1983	July 14, 1983	Baltimore, MD $25,000
V. Boutin Express Inc., 1397 Savoie St., Plessissville, Quebec, Canada; motor carrier; The Hanover Ins. Co.	June 20, 1983	June 30, 1983	St. Albans, VT $25,000
George W. Brown, Inc., 1475 East 222nd St., Bronx, NY; motor carrier; Peerless Ins. Co. D 5/12/83	Apr. 23, 1976	Apr. 23, 1976	New York Seaport $50,000
C-Wolf, Inc., P.O. Box 956, Granite Falls, WA; motor carrier; The Travelers Indemnity Co.	June 24, 1983	June 27, 1983	Seattle, WA $25,000
California Motor Express, d/b/a Delta Lines, Inc., 333 Hegenberger Rd, Oakland, CA; motor carrier; Protective Ins. Co (PB 6/5/79) D 7/5/83 [4]	June 5, 1983	July 5, 1983	San Francisco, CA $25,000
Campbell's Delivery Service, Inc., 10000 John Saunders Rd., San Antonio, TX; motor carrier; The Travelers Indemnity Co (PB 4/29/82) D 7/6/83	Apr. 27, 1983	July 6, 1983	Laredo, TX $25,000
Canny Trucking Co., Inc., 6-18 Spring Forest Ave., Binghamton, NY; motor carrier; Liberty Mutual Ins. Co.	May 24, 1983	July 11, 1983	Buffalo, NY $25,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Delta Lines Inc.—See California Motor Express			
Four Winds, 9261-9271 N.W. 97th Terrace, Medley, FL; motor carrier; The American Ins. Co.	Mar. 3, 1983	June 17, 1983	Miami, FL $50,000
G & P Trucking Co., Greenwood, SC; motor carrier; Ins. Co. of North America (PB 7/11/77) D 7/12/83[5]	July 11, 1983	July 12, 1983	Charleston, SC $25,000
Ivory, Inc., 1356 N.W. Second Ave., Boca Raton, FL; motor carrier, American Ins. Co.	June 17, 1983	July 6, 1983	Baltimore, MD $50,000
Arthur Johnson Co., 3230-58 West 38th St., Chicago, IL; motor carrier; Peerless Ins. Co. (PB 4/18/79) D 7/8/83[6]	Apr. 18, 1983	July 8, 1983	Chicago, IL $35,000
Ligon Specialized Hauler, Inc., Post Office Drawer L, Madisonville, KY; motor carrier; Protective Ins. Co. (PB 3/26/81) D 7/5/83[7]	July 1, 1983	July 5, 1983	Cleveland, OH $50,000
Liquid Transporters, Inc., 1292 Fern Valley Rd., P.O. Box 36247, Louisville, KY; motor carrier; The American Ins. Co. (PB 6/21/81) D 7/12/83[8]	June 21, 1983	July 12, 1983	Cleveland, OH $150,000
Maritime Transport, Inc., P.O. Box 3482, Norfolk, VA; motor carrier; Washington International Ins. Co.	June 23, 1983	July 8, 1983	Norfolk, VA $25,000
Memphis Leasing-Duvall Transfer Co., P.O. Box 18180, Memphis, TN; motor carrier; Lawyers Surety Corp.	June 24, 1983	July 7, 1983	New Orleans, LA $50,000
Murray International Freight Corp., P.O. Box 9562, Baltimore, MD; motor carrier; Ins. Co. of North America	Mar. 8, 1983	June 29, 1983	Baltimore, MD $25,000
National Transportation, Inc., 14031 L St., Omaha, NB; motor carrier; Aetna Casualty and Surety Co. D 7/12/83	Feb. 6, 1980	Mar. 13, 1980	Chicago, IL $50,000
Post & Sons Transfer, Inc., 2326 Milwaukee Way, Tacoma, WA; motor carrier; Transamerica Ins. Co.	June 24, 1983	June 28, 1983	Seattle, WA $25,000
Reliance Motor Express, Inc., 28 Fitchburg St., Somerville, MA; motor carrier; Liberty Mutual Ins. Co. D 7/12/83	Nov. 25, 1980	Feb. 2, 1981	Boston, MA $50,000
SATAV Canada Transport Ltd., 8575 Pascal Gagnon, St. Leonard, Quebec, Canada; motor carrier; The Hanover Ins. Co.	July 12, 1983	July 15, 1983	St. Albans, VT $25,000
Sea-Tac Transfer, Inc., 18927-16th Avenue So., Seattle, WA; motor carrier; Washington International Ins. Co. (PB 5/10/82) D 7/18/83[9]	July 15, 1983	July 18, 1983	Seattle, WA $25,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Sharmax Freightlines, Inc., 12645 Midranch Lane, Lakeside, CA; motor carrier; Industrial Indemnity Co.	May 10, 1982	May 10, 1982	San Diego, CA $50,000
Trans States Lines, Inc., 6815 S. Jenny Lind, Fort Smith, AR; motor carrier; St. Paul Fire & Marine Ins. Co. (PB 4/27/82) D 7/7/83 [10]	June 9, 1983	July 7, 1983	New Orleans, LA $25,000
H. C. Williams, Jr., Trucking Co., Inc., P. O. Box 1621, Wilmington, NC; motor carrier; United States Fire Ins. Co.	June 29, 1983	June 30, 1983	Wilmington, NC $25,000

[1] Surety is The Ohio Casualty Ins. Co.
[2] Surety is Fidelity & Deposit Co. of MD.
[3] Surety is Ins. Co. of North America.
[4] Principal is California Motor Express, a division of Delta Lines, Inc. Surety is Safeco Ins. Co. of America.
[5] Principal is G & P Trucking Co., Inc. Surety is Liberty Mutual Ins. Co.
[6] Principal is Arthur Johnson Co., Inc. Surety is Ins. Co. of North America.
[7] Surety is Safeco Ins. Co. of America.
[8] Surety is Ins. Co. of North America.
[9] Surety is Hartford Accident & Indemnity Co.
[10] Surety is Fidelity and Deposit Co. of MD.

BON-3-03

MARILYN G. MORRISON,
Director,
Carriers, Drawback, and Bonds Division.

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19 CFR Parts 12 and 127

(T.D. 83-158)

Customs Regulations Amendments Relating to Special Classes of Merchandise

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to regulate the entry of any chemical substance, imported in bulk or as part of a mixture into the customs territory of the United States. The rule also governs the importation of certain articles containing hazardous chemicals that the Environmental Protection Agency ("EPA") specifically regulates. The rule, which was developed after consultation with EPA, implements the Toxic Substances Control Act ("TSCA") by requiring the importer of a chemical shipment to certify at the port of entry that either the shipment is subject to TSCA and complies with all applicable rules and orders thereunder, or is not subject to TSCA.

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Harrison C. Feese, Entry Examination and Liquidation Branch, Duty Assessment Division, Office of Trade Operations, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, 202-566-8651; or Jack McCarthy, Director, TSCA Assistance Office (TS-799), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-511B, 401 M Street, SW., Washington, D.C. 20460, 800—424-9065 (Toll Free), calls within the District of Columbia 554-1404, outside the United States: Operator—202-554-1404.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Toxic Substances Control Act ("TSCA"), Pub. L. 94-469, approved October 11, 1976 (15 U.S.C. 2612), was enacted by the Congress to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes. Section 13, TSCA, directs the Secretary of the Treasury, after consultation with the Administrator, Environmental Protection Agency ("EPA"), to refuse entry into the customs territory of the United States (the "customs territory") of any chemical substance, mixture, or article containing a chemical substance or mixture that: 1. Fails to comply with any rule in effect under TSCA, or 2. Is offered for entry in violation of section 5 or 6, TSCA, a rule or order issued under section 5 or 6, or an order issued in a civil action brought under section 5 or 7, TSCA.

Section 13 further provides that if a chemical substance, mixture, or article is refused entry, the Secretary shall notify the consignee of the entry refusal, not release the shipment, except under bond, and cause its disposal or storage under such rules as the Secretary may prescribe if the shipment has not been exported by the consignee within 90 days from the date of receipt of the notice of entry refusal.

To implement the provisions of section 13, by notice published in the Federal Register on December 1, 1980 (45 FR 79730), Customs and EPA proposed amendments to Parts 12 and 127, Customs Regulations (19 CFR Parts 12, 127), to regulate the entry of any chemical substance, imported in bulk or as part of a mixture into the customs territory. The rule also governs the importation of certain articles containing hazardous chemicals that EPA specifically regulates. On the same date, by notice published in the Federal Register (45 FR 79726), EPA issued a proposed policy statement concerning its responsibilities under the proposed rule.

Numerous comments were received by EPA and Customs in response to the above proposals. While most commenters agreed with the objectives of the proposed rule, the following concerns were expressed.

COMMENTS ON PROPOSED RULE

DEFINITION OF IMPORTER

Comment: The proposal defines importer too broadly. Only the consignee should sign the certification statement required by proposed section 12.121.

Response: The language of section 13 refers to liability of the owner and consignee. These are two of the possible importers who may sign the certification statement. The rule uses the broader Customs definition of importer for several reasons. (1) As a practical matter, since the rule involves entering goods through Customs, allowing the person who normally acts as the importer for Customs transactions (i.e., importer of record) to sign the certification statement is least disruptive, confusing, and burdensome for industry and Customs. (2) The section 13 language encompasses all rules under TSCA, therefore the section 13 definition of importer must be broad enough to cover any TSCA definition of importer. Under other sections of TSCA the importer is defined as a manufacturer, and in some cases this importer-manufacturer may be a person other than the consignee. Thus, section 13 should not limit the importer definition to only the consignee. (3) The importer who signs the certification statement, unlike the importer responsible for other TSCA requirements such as premanufacture notification, need not be the "most" knowledgeable person about the chemical hipment, as long as he is assured that the shipment meets the requirements of TSCA. Thus, any authorized person who meets the nformation requirements may sign the certification statement, at he convenience of the parties to the importation.

MECHANICS OF CERTIFICATION

Comment: The rule should allow the certification statement to be yped, stamped, or preprinted and submitted as an attachment to n appropriate entry document or commercial invoice.

Response: In developing the proposal, EPA and Customs considred whether the certification statement should appear on an existg or on a separate and new entry document. To avoid creating dditional paperwork at the port of entry, the proposed rule stated at the certification statement should appear on an existing entry cument. The proposal specified that the statement be typed for gibility. We considered that the importer would ordinarily type d sign the statement on an entry document or invoice in the urse of business in arranging for the import. However, we agree th the comment and have changed the rule to allow the importer e options of having the certification statement typed or stamped an existing entry document or invoice, or on a preprinted athment to an entry document or invoice.

Comment: Facsimile signatures should be allowed, particularly repeat shipments.

Response: We agree with this comment, and have added a new paragraph (c) to proposed section 12.121.

Comment: The rule should not be effective until 90 days after publication so that goods ordered before the effective date can clear ports of entry and importers can educate themselves and foreign suppliers of the rule's requirements.

Response: The time a shipment leaves a port should have no bearing on the effective date. Importers are presently aware that all shipments of chemical substances must be in conformance with TSCA rules and they are merely being asked to certify that fact after the shipment arrives. However, to allow sufficient time to review the requirements, we are providing additional time before the effective date.

Comment: The rule should address the problem of shipments of chemicals on which TSCA rules are promulgated during shipment.

Response: Importers should be aware of proposed TSCA rules to be able to comply when a rule becomes final. The additional days between promulgation and effective date should allow sufficient time for importers to determine how a rule applies to a particular importation.

Comment: Because the proposed certification does not require information to be submitted to either EPA or Customs, description of the scope of the certification should not say all required information submittals are complete and accurate.

Response: We agree with this comment, and have changed the certification accordingly.

Comment: Proposed section 12.121 should specify reasonable steps an importer must take to be assured that a chemical substance and its import comply with TSCA. The certification statement should include the language that it is "based on inquiries in conformance with 19 CFR 12.121."

Response: Customs and EPA disagree. Proposed section 12.121 is properly limited to activities involving actual entry of chemical shipments which fall within the enforcement jurisdiction of Customs. It is beyond the scope of the proposed regulations to set forth the procedures that an importer must take before entry to ensure an import's technical compliance with TSCA. These procedures are explained in the EPA policy statement to be published soon.

Comment: The rule should clarify that all chemical products entered under Schedule 4, Tariff Schedules of the United States (TSUS), require TSCA certification.

Response: Many—but not all—chemical substances as defined under TSCA would be entered under Schedule 4, TSUS. For example, chemicals or mixtures imported as metal-bearing ones under Schedule 6, TSUS, would require TSCA certification. Not all imports under Schedule 4, TSUS, are chemical substances requiring certification under TSCA. For example, chemicals imported as pesticides under items 408.16–408.38, TSUS, would not require TSCA certification. Importers may contact the EPA Regional Office or the EPA TSCA Assistance Office to determine whether a specific chemical intended for importation is subject to TSCA.

DETENTION

Comment: The proposal would allow detention at the port of entry for noncompliance arising from TSCA sections 5, 6, or 7, or "as otherwise directed by the Administrator." The rule should state the other circumstances that would cause the Administrator to direct that a shipment be detained.

Response: EPA has determined that detention would invariably result from noncompliance with TSCA section 5, 6, or 7. Thus, the language regarding detention "as otherwise directed by the Administrator", is deleted.

Comment: The rule should specify the "reasonable grounds" on which a shipment would be detained at the port of entry. There should be good cause, not mere suspicion of noncompliance to detain a shipment.

Response: The rule allows for detention at the port of entry when a certification statement is missing, or when there are reasonable grounds to believe .that a shipment does not comply with TSCA. "Reasonable grounds" means there is an objective reason to believe that a shipment does not comply. This reason will be specified in the detention notice.

Comment: The reasons for detention and the remedial actions to be taken to have a shipment released, should be included in the detention notice.

Response: The proposal states that the detention notice shall include the reasons for detention. The importer may get assistance from EPA in determining the remedial actions to be taken to bring the shipment into compliance. This is specified in the EPA policy statement.

Comment: The importer should be promptly notified of detention by telephone, followed by written notice.

Response: It is Customs policy to promptly notify the importer or his agent when it is determined that a shipment may not be released from Customs custody. However, because of local conditions it may not be practical to notify by telephone. Therefore, the method of notification should be left to local Customs officials in accordance with local practice.

Comment: EPA should simultaneously notify Customs and the importer of its decision regarding the compliance status of detained shipments.

Response: EPA agrees with this comment and will do so.

Comment: Some commenters stated that the importer should be notified of detention by Customs within 48 or 72 hours, rather than given "prompt" notice as proposed.

Response: Customs disagrees. The establishment of a specific time limit or deadline within which Customs must notify the importer of detention is arbitrary and would impose an undue administrative burden on the agency.

Comment: Detained shipments should be automatically released if EPA does not act within a specified time period.

Response: EPA will act within the specified time periods, so there is no need for an automatic release. An automatic release would not be appropriate since a purpose of section 13 is to deny entry to shipments that do not comply with TSCA, and a shipment would have been detained only if there were reason to suspect that it did not comply.

Comment: The proposal would allow importers 20 days from the date of detention to submit documentation showing why a shipment should be allowed entry. EPA must allow or deny entry within 30 days from the date of detention.

A commenter pointed out that if the importer takes 20 days to submit information, only 10 days remain for EPA to determine whether the importation should be allowed. Also, there is no advantage for an importer to make his submission in fewer than the allowed 20 days, since the earlier an importer does so, the more time would remain in the 30 days from detention within which EPA must respond. The commenter suggested the rule state that EPA allow or deny entry within 10 days after the importer submits his materials. This change would not alter the length of time for EPA's response, but would allow the importer who files promptly to receive a more prompt response from EPA.

Response: EPA agrees. The final rule provides that EPA will decide to allow or deny entry within 10 days of receipt of the importer's submission, or within 30 days from the date of detention, whichever comes first.

Comment: There were several comments about time limits. One commenter said the rule should allow the importer 90 days after notice of refusal of entry, rather than 90 days after notice of detention, to bring the shipment into compliance or export it. The importer would not begin planning export until at least 30 days after the notice of detention, when the goods would be denied entry.

Another commenter said importers should be allowed 60 days from the date of redelivery demand to bring a shipment into compliance or export it. There should not be a time disadvantage for shipments released on bond. According to the comment, the time disadvantage may be an incentive to abandon goods.

Response: Customs believes that 90 days after notice of detention gives the importer sufficient time to bring the shipment into compliance or export it.

Comment: Three extensions should be allowed when the importer is delayed in complying with TSCA for causes beyond his control, such as delays caused by EPA or Customs.

Response: Customs disagrees. The proposal grants an extension of 30 days, if due to delays caused by Customs or EPA, the importer is unable to bring a shipment into compliance with TSCA, or is unable to export it within the required time. Customs believes that one time extension is sufficient under the circumstances. Any additional extensions would be excessive and frustrate the intent of the Act.

ENFORCEMENT

Comment: The proposed rule and policy statement allow both EPA and Customs to take enforcement action. This unnecessarily requires establishing two separate Government enforcement mechanisms for the same violation, increases the importer's potential liability, and causes an importer to deal with two separate agencies in enforcement matters. One comment suggested that one of the agencies should state a policy of deferring to the other, except in cases of deliberate violation.

Response: Depending on the circumstances, EPA or Customs or both may take enforcement action under TSCA. However, Customs enforcement responsibilities will end with its release of the merchandise unless entry is made under a "use" provision of the TSUS. This will not necessarily require two separate enforcement mechanisms for the same violation, since in many cases it would be appropriate for only one agency to act. This does not increase the importer's potential liability both under TSCA and under Customs statutes and regulations.

Comment: It is not clear how Customs will verify the certification statement.

Response: Generally, Customs will not verify a certification statement. However, EPA intends to investigate the accuracy of some certification statements. In addition, if there is reason to believe that a certification is false, EPA or Customs will investigate as with any suspected false statement made in connection with an entry.

SCOPE

Comment: Congress intended section 13 only for Customs to prevent the importation of hazardous chemicals, not for EPA to use as a tool for the overall enforcement of TSCA.

Response: Section 13 prohibits the importation of any chemical that "fails to comply with any rule in effect under this Act." Thus, section 13 is intended as a tool for enforcement of all TSCA import provisions. While the TSCA directs the Secretary of the Treasury to refuse entry of chemical imports that do not comply with TSCA requirements, as a practical matter, EPA—rather than Customs—will ultimately determine whether an import complies.

WHO SHOULD CERTIFY?

Comment: Comments were mixed on whether an agent or broker should certify an import's compliance with TSCA. Some comments said brokers should not be required to sign the certification statement because they do not have sufficient information regarding the shipment.

Other comments said brokers should be able to sign the certification statement on behalf of the actual user of the chemical import. The broker could rely on a bona fide certification from the importer with sufficient knowledge of the shipment.

Response: EPA agrees that a broker can certify based on information obtained from his principal in the ordinary course of business.

Comment: An individual who certifies on behalf of an importing company should not be personally liable for false statements. Penalties should apply only to the corporate entity.

Response: TSCA section 16 describes penalties that "any person" who violates the Act may incur. Although TSCA does not explicitly define "person," the term as used in the Act clearly includes individuals or agents. However, EPA recognizes that an agent may not be responsible for a violation and that the principal may be held liable.

Comment: The importer should be able to fulfill his obligations by presenting a certification from the foreign manufacturer that the chemical substance complies with TSCA.

Response: EPA disagrees. The foreign manufacturer is not under TSCA's jurisdiction and thus cannot be held liable for noncompliance. The responsibility to certify is the importer's. His responsibility may not be completely discharged with a certification from the foreign manufacturer if it is determined that a shipment does not comply.

CHEMICALS SUBJECT TO CERTIFICATION

Comment: Comments requested exemptions from certification for several categories of chemical substances: (a) Those unintentionally present in the import shipment, such as byproducts, coproducts, and impurities; (b) small quantities for research and development (as defined by Inventory criteria at 40 CFR 710.2(y)); (c) samples imported for testing; and (d) chemicals subject to significant new use requirements.

Response: The importer must look to a TSCA section 5, 6, or 7 rule or order to determine whether the above exemptions apply. For example, presently section 5 requirements exempt importers from submitting premanufacture notices on byproducts or impurities provided they are not imported for separate commercial purposes. Thus, the importer would be required to determine the compliance status under section 5 only for chemical substances intentionally present in the shipment. The importer's certification would mean that the intentional import complied with section 5, and that any unintentionally present chemicals also complied with section 5 simply because they were exempt from these requirements.

Similarly, small quantities for research and development are now also exempt from section 5 requirements. For such imports, the importer's certification statement might be based on information from the consignee that the shipment is intended only for research and development. In this situation, the importer could truthfully certify that the shipment complies with TSCA, without need to determine if the imported chemicals are on the TSCA Inventory.

Research and development includes quality control testing, and testing for the development of a product. If samples are imported only for testing, the samples would be considered as research and development chemicals.

When EPA promulgates significant new use rules, importers will be responsible for determining whether their imports contain chemical subject to the rules. If so, the importer must ascertain that the intended use of the chemical complies with TSCA.

Comment: Several commenters stated that the certification statement should include language about chemicals exempted from TSCA. They are concerned that there is potential for confusion at the point of entry because some chemical shipments obviously will not be subject to TSCA. For example, chemicals imported solely for use as pharmaceuticals or pesticides are not chemical substances, or articles under TSCA requiring certification. It is suggested that the certification contain an exemption clause for these articles, or that a separate non-TSCA certification statement be required to help Customs identify TSCA and non-TSCA imports, so as to avoid potentially delaying entries.

Response: We agree. Accordingly, the rule is changed to require importers of non-TSCA regulated chemicals to certify that their shipments are not subject to TSCA. The authority for requiring this negative certification is found in 19 U.S.C. 1484 and 1485.

MEANING AND BASIS FOR CERTIFICATION

Comment: The wording of the certification statement should include compliance only with TSCA sections 5, 6, and 7, instead of "all rules" under TSCA because the certification does not cover TSCA section 4 or 8.

Response: The language of the certification has been changed to read "all applicable rules and orders under TSCA."

Comment: The proposed certification statement is redundant. The importer should not need to certify both that the imported chemicals "comply with all rules under TSCA" and that he is "not offering a chemical substance for entry in violation of TSCA or any order under TSCA."

Response: The certification statement was constructed to parallel the language in TSCA section 13(a)(1) (A) and (B). The requirements under 13(1)(a) pertain to the commodity itself, such as the requirements for PCB's under section 6. The requirements under 13(1)(B) pertain to obligations imposed by or under TSCA on the importer, such as the obligation under section 5(a) to file a premanufacture notice for "new" chemicals. The certification statement uses two separate phrases to acknowledge the distinction between requirements imposed directly on commodities, and duties imposed on importers.

Comments: Several commenters recommended changing the certification statement to reduce the potential liability of importers who may not be in a position to know the facts needed to determine whether a shipment complies with TSCA. They argue that the importer may not have the specialized knowledge to determine if the chemical supplied actually complies. Or, necessary information may be confidential and the foreign supplier unwilling to divulge it. To alleviate this problem, one recommendation was for the certification to be signed on "behalf of" the importer. Another recommendation was to allow the importer to certify "to the best of his knowledge and belief."

Response: The certification statement does not include the phrase "to the best of my knowledge and belief" because this would defeat the purpose of the certification. An importer who did not know and had made no attempt to discover whether a chemical complied with TSCA could truthfully declare that "to the best of his knowledge and belief" the shipment complied.

SPECIAL CHEMICAL IMPORT REPORT FORMS

Comment: Commenters gave several reasons to delete the provision in proposed section 12.121, Customs Regulations, for the Special Chemical Import Report Form. (1) The proposed form would exceed Customs authority under section 13. The statute does not allow the Secretary of the Treasury to require importers to report information. (2) The form would be unnecessary and burdensome since EPA has the authority to require substantiation of certification on a case-by-case basis. (3) Obtaining the information on particular chemicals would not be a problem for importers unless it were also a problem for the domestically manufactured chemical. Such a rule would be a non-tariff trade barrier if it did not also apply to domestically manufactured chemicals. (4) EPA authority to issue such a form is doubtful since EPA has determined that the import certification does not apply to TSCA section 4 or 8 rules, but authority for the special import form would be under section 6 or 8. (5) No additional documents should be required at the port of entry.

Response: While EPA does not necessarily agree with these comments, we have deleted this provision until actual need arises.

EXPORT

Comment: Export notification should not be required for rejected entries that were never officially in the United States, and especially should not be required for chemicals that are returned to their country of origin after being denied entry. If export notice is required for such chemicals under TSCA section 12(b), it should not ais*** BAD MAG TAPE ***under section 13.

Response: The language of section 13 argues that export of an entry that is rejected under section 13 is an export under section 12(b). However, after considering these comments, it has been determined that export notification is necessary only for the chemicals that are regulated under TSCA. A section 12(b) export notice will be required for a chemical denied entry only when a TSCA section 5, 6, or 7 rule or order applies to the chemical, and it is not being returned to the country of origin.

BURDEN

Comment: The certification requirement is burdensome and may discourage the importation of small quantities of chemicals.

Response: Customs disagrees. The certification requirement is not burdensome because the importer is already obligated to know that any chemicals imported must be in compliance with TSCA. The additional cost of certification will not discourage the importation of small quantities of chemicals.

Comment: The economic analysis should consider alternative regulatory approaches that do not include certification. It should also consider the potential costs to the public from delay at the port of entry.

Response: The economic analysis of the proposed section 13 estimated costs to importers required to certify at the port of entry, and compared these costs to alternative approaches that would not require formal certification. No significant cost differences were found to exist. The analysis also discusssed the difficulties in estimating administrative costs. Even if it were possible to estimate administrative costs—such as costs of delay—that may result from noncompliance with section 13, EPA would not consider such costs appropriate to include in the economic impact analysis.

INTERNATIONAL CONCERNS

Comment: The EPA policy discriminates against foreign suppliers because it does not allow exporters to maintain compositional confidentiality in all cases.

Response: EPA does not agree. The regulation does not require the foreign supplier to reveal chemical identities to anyone. The importer may choose to rely on the foreign supplier's assurance of compliance with TSCA, although this would not completely discharge the importer's responsibility. The policy does not require foreign suppliers to identify chemical imports to other persons at the entry port or elsewhere.

Among several reasons for the approach adopted, one was recognition that the chemical identities of many imports are trade secrets. EPA does not wish to require importers to obtain compositional information from their foreign suppliers when domestic processors would not be required to obtain similar information from domestic suppliers.

Comment: The section 13 requirements create unnecessary technical obstacles to foreign trade.

Response: EPA disagrees. The rule does not create obstacles since importers should already be aware of and complying with TSCA requirements pertaining to imports. The certification itself is simply a method to verify that importers are aware of and meeting their responsibilities and obligations.

INFORMATION AVAILABILITY

Comments: Comments were mixed on how EPA could best distribute information on the section 13 requirements. Some commenters said that EPA lacks statutory authority to issue fact sheets and that such fact sheets would be confusing and wasteful. Other commenters said that EPA should regularly distribute a checklist of TSCA rules for importers to distribute to their suppliers, since importers are in the best position to educate their foreign suppliers about these to U.S. embassies, U.S. Customs offices abroad, and foreign boards of trade. Fact sheets should especially include information on significant new use rules.

Response: To meet the purposes of section 13, EPA intends to make information about the requirements available by distributing fact sheets on current TSCA requirements, and by answering telephone inquiries through the EPA TSCA Assistance Office. Statutory authority is not necessary to distribute this information.

EPA does not agree that issuing fact sheets would be confusing. It would be easier for importers and suppliers to determine compliance if a current list of all TSCA rules is available to them.

Importers are in the best position to inform their foreign suppliers of TSCA requirements, or they may wish to have their foreign suppliers receive information directly from EPA. Anyone may contact the TSCA Assistance Office to be placed on its mailing list for TSCA section 13 and other TSCA literature, including any significant new use rules. U.S. embassies, U.S. Customs offices abroad, and foreign boards of trade will automatically be placed on the mailing list.

ECONOMIC IMPACT ANALYSIS STATEMENT

Estimated costs for industry compliance with this regulation are contained in a report entitled, "Economic Impact Assessment of the Section 13 Importer Regulations of the Toxic Substances Control

Act," dated November, 1979. This report indicates that total cost to industry will be approximately $2.3 million.

The economic impact study is available for review at the Environmental Protection Agency, Office of Pesticides and Toxic Substances, Reading Room, Room 447 East Tower, 401 M Street, SW., Washington, D.C. 20460.

EXECUTIVE ORDER 12291

It has been determined that this document does not contain a "major rule" requiring preparation of a regulatory impact analysis under Executive Order 12291.

REGULATORY FLEXIBILITY ACT

It is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this rule will not have a significant economic impact on a substantial number of small entities.

DRAFTING INFORMATION

The principal author of the document was Jesse V. Vitello, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service (202-566-8237). However, personnel from other Customs offices and EPA participated in its development.

LIST OF SUBJECTS IN 19 CFR PARTS 12 AND 127

Customs duties and inspection, importers, hazardous materials, explosives, and freight.

REGULATIONS AMENDMENTS

Parts 12 and 127, Customs Regulations (19 CFR Parts 12, 127), are amended as set forth below.

ALFRED R. DEANGELUS,
Acting Commissioner of Customs.

Approved: April 13, 1983.
ROBERT E. POWIS,
Acting Assistant Secretary of the Treasury.

[Published in the Federal Register, August 1, 1983 (48 FR 34734)]

PART 12—SPECIAL CLASSES OF MERCHANDISE

Part 12, Customs Regulations (19 CFR Part 12), is amended by adding a center heading and § 12.118 through 12.127 to read as follows:

Chemical Substances in Bulk and as Part of Mixtures and Articles

§ 12.118 Toxic Substances Control Act.

The importation into the customs territory of the United State of a chemical substance in bulk or as part of a mixture, or article *containing a chemical substance or mixture*, is governed by the Toxic Substances Control Act ("TSCA") (15 U.S.C. 2601 *et seq.*), and by regulations issued under the authority of section 13(b), TSCA (15 U.S.C. 2612(b)) by the Secretary of the Treasury in consultation with the Administrator, Environmental Protection Agency ("EPA").

§ 12.119 Scope.

Sections 12.120 through 12.127 apply to the importation into the customs territory of the United States of chemical substances in bulk and as part of mixtures under TSCA. Sections 12.120 through 12.127 also apply to articles containing a chemical substance or mixture if so required by the Administrator by specific rule under TSCA.

§ 12.120 Definitions.

Except as otherwise provided below, the terms used in §§ 12.121 through 12.127 have the meanings set forth for those terms in TSCA.

(a) "Article"

(1) "Article" means a manufactured item which:

(i) Is formed to a specific shape or design during manufacture,

(ii) Has end use functions dependent in whole or in part upon its shape or design during the end use, and

(iii) Has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article and that may occur as described in § 12.120(a)(2) below; except that fluids and particles are not considered articles regardless of shape or design.

(2) The allowable changes of composition, referred to in § 12.120(a)(1), are those which result from a chemical reaction that occurs upon the end use of other chemical substances, mixtures, or articles such as adhesives, paints, miscellaneous cleaners or other household products, fuels and fuel additives, water softening and treatment agents, photographic films, batteries, matches, and safety flares in which the chemical substance manufactured upon end use of the article is not itself manufactured for distribution in commerce or for use as an intermediate.

(b) "Chemical substance in bulk form" means a chemical substance (other than as part of a mixture or article) in containers used for purposes of transportation or containment, provided that the chemical substance is intended to be removed from the container and has an end use or commercial purpose separate from the container.

§ 12.121 Reporting requirements.

(a) *All chemical substances in bulk or mixtures.* The importer of a chemical substance, imported in bulk or as part of a mixture, shall certify to the district director at the port of entry that the chemical shipment is subject to TSCA and complies with all applicable rules and orders thereunder, or is not subject to TSCA. The importer, or his authorized agent, shall sign one of the following statements:

I certify that all chemical substances in this shipment comply with all applicable rules or orders under TSCA and that I am not offering a chemical substance for entry in violation of TSCA or any applicable rule or order thereunder.

I certify that all chemicals in this shipment are not subject to TSCA. The certification, which shall be filed with the district director at the port of entry before release of the shipment, may appear as a typed or stamped statement:

(1) On an appropriate entry document or commercial invoice, or on a preprinted attachment to such entry or invoice.

(2) On the commercial invoice or an attachment to the invoice, in the event of release under a special permit for an immediate delivery, as provided for in section 142.21 of this chapter, or entry, as provided for in section 142.3 of this chapter.

(b) *Chemical substance or mixture as part of articles.* Each importer of a chemical substance or mixture as part of an article shall meet the reporting requirements set forth in paragraph (a) of this section only if required by a rule or order under TSCA.

(c) *Facsimile signatures.* The certification statements in paragraph (a) may be signed by means of an authorized fascimile signature.

§ 12.122 Detention of certain shipments.

(a) The district director at the port of arrival shall detain, at the importer's risk and expense, shipments of chemical substances mixtures, or articles:

(1) Which have been banned from the customs territory of the United States by a rule or order issued under section 5 or 6 of TSCA (15 U.S.C. 2604 or 2605) or

(2) Which have been ordered seized because of imminent hazards as specified under section 7 of TSCA (15 U.S.C. 2606).

(b) The district director at the port of entry shall detain shipments of chemical substances, mixtures, or articles at the importer's risk and expense, in the following situations:

(1) Whenever the Administrator has reasonable grounds to believe that the shipment is not in compliance with TSCA and notifies the district director to detain the shipment.

(2) Whenever the district director has reasonable grounds to believe that the shipment is not in compliance with TSCA; or

(3) Whenever the importer fails to certify compliance with TSCA as required by § 12.121.

(c) Upon detention of a shipment, the district director shall give prompt notice to the Administrator and the importer. The notice shall include the reasons for detention.

(d) A detained shipment shall not be held in the custody of the district director for more than 48 hours after the date of detention. Thereafter, the shipment shall be promptly turned over to the Administrator for storage or disposition as provided for in section 12.127 and 127.28(i), unless previously released to the importer under bond as provided in section 12.123(b). Notice of intent to abandon the shipment by the importer shall constitute a waiver of all time periods specified in Parts 12 and 127.

§ 12.123 Procedure after detention.

(a) *Submission of written documentation.* If a shipment is detained by a district director under section 12.122, the importer may submit written documentation to the Administrator with a copy to the district director within 20 days from the date of notice of detention, to show cause why the shipment should not be refused entry. If an importer submits that documentation, the Administrator shall allow or deny entry of the shipment within 10 days of receipt of the documentation, and in any case shall allow or deny entry of the shipment within 30 days of the date of notice of detention.

(b) *Release under Bond.* The district director may release to the importer a shipment detained for any of the reasons given in § 12.122 when the district director has reasonable grounds to believe that the shipment may be brought into compliance, or when the district director deems it appropriate under § 141.66 of this chapter. Any such release shall be conditioned upon furnishing a bond on Customs Form 7551, 7553, or 7595 for the return of the shipment to Customs custody. The bond shall be for the full amount required in § 113.14 of this chapter. If a shipment of chemical substance, mixture, or article is released to the importer under bond, the shipment shall be held intact and shall not be used or otherwise disposed of until the Administrator makes a final determination on entry as provided for in paragraph (c) of this section.

(c) *Determination by the Administrator.* After consideration of the available evidence and within 30 days from the notice of detention, the Administrator shall notify the district director and the importer of his decision either to permit or refuse entry of the shipment. If the administrator finds that the shipment is in compliance with TSCA, the district director shall release the shipment to the importer. If the Administrator finds that the shipment in not in compliance, the district director shall:

(1) Refuse delivery to the importer, given reasons for such refusal, or

(2) If the shipment has been released on bond, demand its redelivery under the terms of the bond, giving reasons for such demand. If the merchandise is not redelivered within 30 days from

the date of the redelivery notice, the district director shall assess liquidated damages in the full amount of the bond.

§ 12.124 Time limitations and extensions.

(a) *Time limitations.* The importer of a shipment of chemical substances, mixtures, or articles which has been detained under § 12.122 shall bring the shipment into compliance with TSCA or export the shipment from the customs territory of the United States within 90 days after notice of detention or 30 days of demand for redelivery, whichever comes first.

(b) *Time Extensions.* The district director, upon notification by the Administrator, may grant an extension of not more than 30 days if, due to delays caused by the Environmental Protection Agency or the Customs Service:

(1) The importer is unable, for good cause shown, to bring a shipment into compliance with the Act within the required time period; or

(2) The importer is unable to export the shipment from the customs territory of the United States within the required time period.

§ 12.125 Notice of exportation.

Whenever the Administrator directs the district director to refuse entry under § 12.123 and the importer exports the non-complying shipment within the 90 day period of notice of refusal of entry or within 30 days of demand for redelivery, the importer shall give written notice of the fact of exportation to the Administrator and the district director. The importer shall include the following information in the notice of exportation:

(a) The name and address of the exporter or his agent;

(b) A description of the chemical substances, mixtures, or articles exported.

(c) The destination (country);

(d) The port of arrival at the destination;

(e) The carrier;

(f) The date of exportation; and

(g) The bill of lading or the air way bill number.

§ 12.126 Notice of abandonment.

If the importer intends to abandon the shipment after receiving notice of refusal of entry, the importer shall present a written notice of intent to abandon to the district director and the Administrator. Notification under this section is a waiver of any right to export the merchandise. The importer shall remain liable for any expense incurred in the storage and/or disposal of abandoned merchandise.

§ 12.127 Decision to store or dispose.

A shipment detained under section 12.122 shall be considered to be unclaimed or abandoned and shall be turned over to the Administrator for storage or disposition as provided for in section 127.28(i) of this chapter if the importer has not brought the shipment into compliance with TSCA and has not exported the shipment within time limitations or extensions specified according to section 12.124. The importer shall remain liable for any expenses in the storage and/or disposal of abandoned merchandise.

(Section 13, 90 Stat. 2034 (15 U.S.C. 2612), R.S. 251, as amended (19 U.S.C. 66) and section 624, 46 Stat. 759 (19 U.S.C. 1624)).

PART 127—GENERAL ORDER, UNCLAIMED, AND ABANDONED MERCHANDISE

Part 127, Customs Regulations (19 CFR Part 127), is amended by adding a new paragraph (i) to § 127.28, to read as follows:

§ 127.28 Special merchandise.

* * * * * * *

(i) *Chemical substances, mixtures, and articles containing chemical substances or mixtures.* Chemical substances, mixtures, and articles containing a chemical substance or mixture, as these items are defined in section 3, Toxic Substances Control Act ("TSCA") and section 12.120 of this chapter, shall be inspected by a representative of the Environmental Protection Agency to ascertain whether they comply with TSCA and the regulations and orders issued thereunder. If found not to comply with these requirements they shall be exported or otherwise disposed of immediately in accordance with the provisions of §§ 12.125 through 12.127 of this chapter.

(Section 13, 90 Stat. 2034 (15 U.S.C. 2612), R.S. 251, as amended (19 U.S.C. 66), and sections 484, 485, 624; 46 Stat. 759 (19 U.S.C. 1484, 1485, 1624)).

(T.D. 83-159)

Reimbursable Services—Excess Cost of Preclearance Operations

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., July 29, 1983.

Notice is hereby given that pursuant to Section 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning August 7, 1983.

Installation	Biweekly excess cost
Montreal, Canada	$19,162
Toronto, Canada	31,607
Kindley Field, Bermuda	9,481
Nassau, Bahama Islands	19,631
Vancouver, Canada	12,223
Winnipeg, Canada	5,665
Freeport, Bahama Islands	8,315
Calgary, Canada	11,771
Edmonton, Canada	6,034

WILLIAM H. RUSSELL,
Comptroller.

[Published in the Federal Register, August 3, 1983 (48 FR 35223)]

(T.D. 83-160)

Change of Practice Relating to Tariff Classification of Certain Powernet Fabric

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document gives notice of a change of an established and uniform practice of classifying certain powernet fabric as netting for tariff purposes. This change of practice will result in the reclassification of such fabric, which is used in the manufacture of women's foundation and body support garments, under the provision in the tariff schedules for knit fabrics, of man-made fibers, at a higher rate of duty than was previously assessed.

EFFECTIVE DATE: November 7, 1983.

FOR FURTHER INFORMATION CONTACT: Phil Robins, Classification and Value Division, U.S. Customs Service, 1302 Constitution Avenue, NW., Washington, DC 20229 (202-566-8181).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On November 16, 1982, a notice was published in the Federal Register (47 FR 51587) advising that Customs was reviewing its current established and uniform practice of classifying certain powernet fabric under the provision for netting, in the piece, made on a lace, net, or knitting machine, other, in item 352.80, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202). As part of this review, Customs requested comments on its proposal to reclassify such fabric under the provision for knit fabrics, of man-made fibers, in item 345.50, TSUS, at a higher rate of duty. Comments were to have been received on or before January 17, 1983. However, no comments were received.

As indicated in the notice, information has been made available to Customs to indicate that although the term "powernet" may have commerical significance to the consumer in a marketing or merchandising sense, the term is in fact a misnomer because the actual construction of the fabric in question is that of a knit fabric. In addition, it appears that powernet fabrics are not known technically by experts in the trade as net fabrics, and garments made from powernet fabrics are classified by Customs as knit garments.

CHANGE OF PRACTICE

On the basis of the above information, Customs has determined that the established and uniform practice of classifying powernet fabric as netting is clearly erroneous. It is Customs position that the fabric in question, which is a stretch knit with a "brickwork" or "honeycomb" construction containing elastic man-made fibers (not rubber) and a very small amount of open work is properly classifiable under the provision for knit fabrics, of man-made fibers, in item 345.50, TSUS. Accordingly, the proposal is adopted.

DRAFTING INFORMATION

The principal author of this document was Jesse V. Vitello, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

WILLIAM VON RAAB,
Commissioner of Customs.

Approved: July 19, 1983.
ROBERT E. POWIS,
Acting Assistance Secretary of the Treasury.

[Published in the Federal Register, August 8, 1983 (48 FR 35878)]

(T.D. 83-161)

Foreign Currencies—Quarterly Rates of Exchange

The table below lists rates of exchange, in United States dollars for certain foreign currencies, which are based upon rates certified to the Secretary of the Treasury by the Federal Reserve of New York under provisions of section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), for the information and use of Customs officers and other concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Quarterly beginning: July 1, 1983 through September 30, 1983.

Country	Name of currency	U.S. dollars
Australia	Dollar	.87620
Austria	Schilling	.055968
Belgium	Franc	.019662
Brazil	Cruzeiro	.001842
Canada	Dollar	.814996
China P.R	Renminbi Yuan	.502816
Denmark	Krone	.109379
Finland	Markka	.180685
France	Franc	.130976
Germany	Deutsche Mark	.393499
Hong Kong	Dollar	.139860
India	Rupee	.099108
Iran	Rial	N/A
Ireland	Pound	1.2400
Italy	Lira	.000664
Japan	Yen	.004181
Malaysia	Dollar	.429000
Mexico	Peso	.006707
Netherlands	Guilder	.351432
New Zealand	Dollar	.65550
Norway	Krone	.137127
Philippines	Peso	.090498
Portugal	Escudo	.008547
Republic of So. Africa	Rand	.91500
Singapore	Dollar	.469263
Spain	Peseta	.006875
Sri-Lanka	Rupee	.043403
Sweden	Krona	.130976
Switzerland	Franc	.474834
Thailand	Baht (Tical)	.043497
United Kingdom	Pound	1.5310
Venezuela	Bolivar	.087719

(LIQ-03-01 S:C:I)

Dated: July 1, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-162)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
June 1-3, 1983	$0.123747
Chile peso:	
June 1, 1983	.013072
June 2, 1983	.013072
June 3, 1983	.012953
Colombia peso:	
June 1, 1983	.012999
June 2, 1983	.012990
June 3, 1983	.012972
Greece drachma:	
June 1, 1983	.011834
June 2, 1983	.011848
June 3, 1983	.011869
Indonesia rupiah:	
June 1-2, 1983	.001030
June 3, 1983	.001029
Israel shekel:	
June 1, 1983	.022287
June 2-3, 1983	.022217
Peru sol:	
June 1, 1983	.000692
June 2, 1983	.000692
June 3, 1983	.000682
South Korea won:	
June 1, 1983	.001295
June 2-3, 1983	.001293

(LIQ-03-01 S:C:I)

Dated: June 24, 1983

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-163)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
June 6–10, 1983	$0.123747
Chile peso:	
June 6–10, 1983	.012953
Colombia peso:	
June 6–9, 1983	.012972
June 10, 1983	.012908
Greece drachma:	
June 6, 1983	.011806
June 7, 1983	.011848
June 8, 1983	.011827
June 9, 1983	.011841
June 10, 1983	.011841
Indonesia rupiah:	
June 6–10, 1983	.001029
Israel shekel:	
June 6–7, 1983	.022075
June 8–9, 1983	.022070
June 10, 1983	.021959
Peru sol:	
June 6–9, 1983	.000682
June 10, 1983	.000660
South Korea won:	
June 6, 1983	.001293
June 7–8, 1983	.001291
June 9–10, 1983	.001289

(LIQ-03-01 S:C:I)

Dated: June 10, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-164)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
June 13–17, 1983	$0.123747
Chile peso:	
June 13–16, 1983	.012953
June 17, 1983	.012853
Colombia peso:	
June 13–16, 1983	.012908
June 17, 1983	.012842
Greece drachma:	
June 13, 1983	.011834
June 14, 1983	.011841
June 15, 1983	.011834
June 16–17, 1983	.011841
Indonesia rupiah:	
June 13–16, 1983	.001029
June 17, 1983	.001025
Israel shekel:	
June 13, 1983	.021786
June 14, 1983	.021678
June 15, 1983	.021683
June 16–17, 1983	.021603
Peru sol:	
June 13–16, 1983	.000660
June 17, 1983	.000649
South Korea won:	
June 13–15, 1983	.001289
June 16–17, 1983	.001287

(LIQ-03-01 S:C:I)

Dated: June 17, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-165)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
June 20-24, 1983	$0.123747
Chile peso:	
June 20-23, 1983	.012853
June 24, 1983	.012788
Colombia peso:	
June 20-23, 1983	.012842
June 24, 1983	.012943
Greece drachma:	
June 20, 1983	.011848
June 21, 1983	.011820
June 22, 1983	.011862
June 23, 1983	.011841
June 24, 1983	.011820
Indonesia rupiah:	
June 20-23, 1983	.001025
June 24, 1983	.001026
Israel shekel:	
June 20-21, 1983	.021473
June 22-24, 1983	.021340
Peru sol:	
June 20-23, 1983	.000649
June 24, 1983	.000639
South Korea won:	
June 20-24, 1983	.001287

(LIQ-03-01 S:C:I)

Dated: June 24, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-166)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
June 27–30, 1983	$0.123747
Chile peso:	
June 27–30, 1983	.012788
Colombia peso:	
June 27–30, 1983	.012943
Greece drachma:	
June 27, 1983	.011848
June 28–29, 1983	.011813
June 30, 1983	.011820
Indonesia rupiah:	
June 27–28, 1983	.001026
June 29, 1983	.001025
June 30, 1983	.001026
Israel shekel:	
June 27–28, 1983	.021340
June 29–30, 1983	.021004
Peru sol:	
June 27–30, 1983	.000639
South Korea won:	
June 27–28, 1983	.001287
June 29–30, 1983	.001286

(LIQ-03-01 S:C:I)

Dated: June 30, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-167)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to Section 522(C), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-90 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Australia dollar:	
June 3, 1983	$0.86450
Belgium franc:	
June 1, 1983	.019650
Brazil cruzeiro:	
June 1, 1983	.002026
June 2, 1983	.001982
June 3, 1983	.001982
Denmark krone:	
June 1, 1983	.109649
June 2, 1983	.109860
June 3, 1983	.109830
France franc:	
June 1, 1983	.130395
Hong Kong dollar:	
June 1, 1983	.138122
June 2, 1983	.137931
June 3, 1983	.137363
United Kingdom pound:	
June 1, 1983	1.5900
June 2, 1983	1.5816
June 3, 1983	1.5650
Venezuela bolivar:	
June 1, 1983	.100000
June 2, 1983	.098039
June 3, 1983	.093458

(LIQ-03-01 S:C:I)

Dated: June 3, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T. D. 83-168)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to Section 522(C), Tariff Act of 1930, as amended (31 U.S.C. 372(C)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-90 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Austria schilling:	
June 6, 1983	$0.055267
June 7, 1983	.055279
June 8, 1983	.055302
June 9, 1983	.055325
June 10, 1983	.055563
Belgium franc:	
June 6, 1983	.019508
June 7, 1983	.019497
June 8, 1983	.019493
June 9, 1983	.019489
June 10, 1983	.019554
Brazil cruzeiro:	
June 6-10, 1983	.001982
Denmark krone:	
June 6, 1983	.108873
June 7, 1983	.108903
June 8, 1983	.109230
June 9, 1983	.109194
June 10, 1983	.109529
France franc:	
June 6, 1983	.129584
June 7, 1983	.129601

June 8, 1983	.129450
June 9, 1983	.129618
June 10, 1983	.129955
Germany mark:	
June 6, 1983	.389864
June 7, 1983	.389332
June 8, 1983	.389454
June 9, 1983	.389864
June 10, 1983	.391236
Hong Kong dollar:	
June 6, 1983	.134048
June 7, 1983	.131234
June 8, 1983	.133869
June 9, 1983	.134590
June 10, 1983	.133869
Ireland pound:	
June 6–7, 1983	1.2310
June 8, 1983	1.2290
June 9, 1983	1.2320
June 10, 1983	1.2360
Italy lire:	
June 6–8, 1983	.000657
Mexico peso:	
June 9, 1983	.006739
June 10, 1983	.006734
Netherland guilder:	
June 6–8, 1983	.347222
June 9, 1983	.347524
United Kingdom pound:	
June 6, 1983	1.5760
June 7, 1983	1.5720
June 8, 1983	1.5696
June 9, 1983	1.5788
June 10, 1983	1.5705
Venezuela bolivar:	
June 6–9, 1983	.093458
June 10, 1983	.088496

(LIQ-03-01 S:C:I)

Dated: June 13, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-169)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to Section 522(C), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-90 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Austria schilling:	
June 13, 1983	$0.055617
June 14, 1983	.055317
June 15, 1983	.055233
June 16, 1983	.055486
June 17, 1983	.055340
Belgium franc:	
June 13, 1983	.019643
June 14, 1983	.019524
June 15, 1983	.019531
June 16, 1983	.019639
June 17, 1983	.019623
Brazil cruzeiro:	
June 13-16, 1983	.001941
June 117, 1983	.001910
Denmark krone:	
June 13, 1983	.109709
June 14, 1983	.109290
June 15, 1983	.109081
June 16, 1983	.109619
June 17, 1983	.109218
France franc:	
June 13, 1983	.130124
June 14, 1983	.129601
June 15, 1983	.129601
June 16, 1983	.130310
June 17, 1983	.129828

Germany mark:	
June 14, 1983	.389864
June 15, 1983	.389484
June 16, 1983	.391313
June 17, 1983	.390854
Hong Kong dollar:	
June 13, 1983	.134771
June 14, 1983	.135318
June 15, 1983	.135135
June 16, 1983	.138313
June 17, 1983	.140164
Ireland pound:	
June 14, 1983	1.2315
June 15, 1983	1.2318
June 16, 1983	1.2360
June 17, 1983	1.2320
Italy lira:	
June 15, 1983	.000657
Mexico peso:	
June 13, 1983	.006734
June 15-16, 1983	.006734
Portugal escudo:	
June 15, 1983	.009547
June 17, 1983	.009524
Spain peseta:	
June 15, 1983	.006931
United Kingdom pound:	
June 15, 1983	1.5522
Venezuela bolivar:	
June 13-16, 1983	.088496
June 17, 1983	.088476

LIQ-03-01 S:C:D)

ated: June 17, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-170)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to Section 522(C), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-90 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Austria shilling:	
June 20, 1983	$0.055556
June 21, 1983	.055641
Belgium franc:	
June 20, 1983	.019643
June 21, 1983	.019635
Brazil cruzeiro:	
June 20-22, 1983	.001910
June 23-24, 1983	.001884
Denmark krone:	
June 20, 1983	.109529
June 21, 1983	.109439
June 24, 1983	.110072
France franc:	
June 21, 1983	.130412
Hong Kong dollar:	
June 20, 1983	.140164
June 21-22, 1983	.140449
June 23, 1983	.139276
June 24, 1983	.139665
Ireland pound:	
June 20, 1983	1.2360
June 21, 1983	1.2350
Philippines peso:	
June 23-24, 1983	.090498
Portugal escudo:	
June 20, 1983	.009346
June 21, 1983	.009551
June 22, 1983	.008621
June 23-24, 1983	.008628
Spain peseta:	
June 21, 1983	.006936

Venezuela bolivar:	
June 20–23, 1983	.084746
June 24, 1983	.086957

(LIQ-03-01 S:C:I)

Dated: June 24, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-171)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to Section 544(C), Tariff Act of 1930, as amended (31 USC 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-90 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Belgium franc:	
June 28, 1983	$0.019646
June 29, 1983	.019635
June 30, 1983	.019677
Brazil cruzeiro:	
June 27–29, 1983	.001884
June 30, 1983	.001842
Denmark krone:	
June 27, 1983	.109529
June 28, 1983	.109469
June 29, 1983	.106213
June 30, 1983	.109619
Hong Kong dollar:	
June 27, 1983	.139470
June 28, 1983	.139276
June 29, 1983	.138889
June 30, 1983	.139860
Philippines peso:	
June 27–28, 1983	.090498
June 29, 1983	.083682
June 30, 1983	.090498

READEX FICHE

Portugal escudo:	
June 27, 1983	$.008632
June 28, 1983	.008518
June 29, 1983	.008554
June 30, 1983	.008547
Spain peseta:	
June 28, 1983	.006889
June 29, 1983	.006888
June 30, 1983	.006875
Venezuela bolivar:	
June 27–30, 1983	.086957

(LIQ-03-01 S:C:I)

Dated: June 30, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-172)

Customhouse Broker License—Revocation

Revocation of Individual License No. 3837 Issued on August 1, 1983, for District 49-09, San Juan, Puerto Rico

Notice is hereby given that the Assistant Secretary of the Treasury on pursuant to section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641), and section 111.53, Customs Regulations, as amended (19 CFR 111.53), revokes individual Customhouse Broker's License No. 3837 issued for Norma E. Sanchez on August 1, 1983, for District 49-09, San Juan, Puerto Rico.

The Assistant Secretary of the Treasury decision is effective as of August 1, 1983.

ALFRED R. DE ANGEULS,
Acting Commissioner of Customs.

[Published in the Federal Register, August 8, 1983 (48 FR 36052)]

(T.D. 83-173)

Motor Fuel-Standards for Classification of Petroleum Materials Used as Motor Fuel

Customs officers are required by the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) to identify petroleum materials which are chiefly used as motor fuels as defined in Headnote

2(b), Part 10, Schedule 4, TSUS, and classifiable under the provision for motor fuel in item 475.25, TSUS. Classification of an imported petroleum product as a motor fuel under item 475.25, TSUS, would be indicated if it can be satisfactorily demonstrated to Customs that the product meets one of the following current ASTM specifications: D439 for Automotive Gasoline; D1655 for Aviation Turbine fuels; or D910 for Aviation Gasolines. Customs officers may obtain copies of these ASTM specifications from the Customs Laboratory in their area or from the Director, Technical Services Division, U.S. Customs Service Headquarters, 1301 Constitution Ave., Washington D.C. 20229. The current ASTM D439, D1655, and D910 specifications supersede any previously published by Customs for petroleum materials chiefly used as motor fuels, and also supersede all previous ASTM publications of those standards.

This ruling revokes T.D. 66-23(13).

Dated: August 17, 1983.

HARVEY B. FOX,
Director.
Classification and Value Division

(T.D. 83-174)

Bonds

Approval and discontinuance of Carrier's Bonds, Customs Form 3587

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: August 17, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
AAA All-American Auto & Truck Transporters, Inc., P.O. Box 5057, Jacksonville, FL; motor carrier; U.S. Fidelity and Guaranty Co.	June 21, 1983	July 16, 1983	Tampa, FL $50,000
A. Adams Trucking, Inc., 404 Myrtle St., New Bedford, MA; motor carrier; Washington International Ins. Co.	May 27, 1983	Aug. 1, 1983	Boston, MA $25,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Alamo Motor Lines, San Antonio, TX; motor carrier; Transamerica Ins. Co. D 7/1/83	Sept. 30, 1952	Oct. 9, 1952	Laredo, TX $25,000
Arrow Carrier, Corp., P.O. Box 810, North Bergen, NJ; motor carrier; Hartford Accident & Indemnity Co.	July 1, 1983	Aug. 8, 1983	Newark, NJ $50,000
B & A Marine Service, Inc., 1804 31st St., Nederland, TX; motor carrier; Aetna Ins. Co.	July 11, 1983	July 18, 1983	Port Arthur, TX $25,000
Bydand Air Transport, Inc., 525 N. York Rd., Bensenville, IL; motor carrier; Safeco Insurance Co. of America	Feb. 17, 1983	July 18, 1983	Chicago, IL $25,000
CCX Nationwide, Inc., 1533 Broad St., Greensburg, PA; motor carrier; American Casualty Company of Reading, PA (PB 1/26/83) D 8/2/83 [1]	June 10, 1983	Aug. 2, 1983	Baltimore, MD $25,000
Canadian Pacific Transport (International) limited, 150 Commissioners St., Toronto, Ontario, Canada; motor carrier; The Continental Ins. Co. (PB 12/8/81) D 7/15/83 [2]	Dec. 8, 1982	July 15, 1983	Detroit, MI $50,000
Caravan Refrigerated Cargo, Inc., 605 S. Loop 12, Irving, TX; motor carrier; National Union Fire Ins. Co. of Pittsburgh, PA D 7/25/83	Oct. 20, 1981	Oct. 20, 1981	Houston, TX $25,000
Cargo World Inc., 9000 Clay Rd., #118, Houston, TX; freight forwarder; The American Ins. Co.	July 12, 1983	July 21, 1983	New Orleans, LA $50,000
Clover Transport Ltd., 7 Balfour St., St. Catharines, Ontario, Canada; motor carrier; The Continental Ins. Co. D 3/25/83	Dec. 10, 1981	Dec. 31, 1981	Buffalo, NY $40,000
D. J. Transfer Co., Inc., 8213 W. 58th St., Merriam, KS; motor carrier; Old Republic Ins. Co.	June 20, 1983	Aug. 1, 1983	St. Louis, MO $50,000
Dallas Carriers Corp., P.O. Box 7024, Dallas, TX; motor carrier; Transamerica Ins. Co. D 3/15/77	Nov. 6, 1975	Jan. 20, 1976	Houston, TX $25,000
East Texas Motor Freight, 623 N. Washington, P.O. Box 10125, Dallas, TX; motor carrier; Gulf Ins. Co. D 8/5/83	Mar. 20, 1980	Apr. 10, 1980	Houston, TX $25,000
Falcon Express, Inc., 3343 Sweetbriar, Bensalem, PA; motor carrier; Employers Insurance of Wausau a Mutual Co.	July 22, 1983	Aug. 5, 1983	Philadelphia, PA $25,000
Fort Worth and Denver Railway Co., Fort Worth Club Building, P.O. B. 943, Fort Worth, TX; rail carrier; United States Fire Ins. Co. D 7/15/83	July 2, 1973	July 25, 1973	Houston, TX $50,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Franklin Trucking, Inc., 212 Ohio St., Buffalo, NY; motor carrier; St. Paul Fire & Marine Ins. Co.	July 25, 1983	Aug. 1, 1983	Buffalo, NY $40,000
Gerald Transport Chambly Inc., Chambly, Quebec, Canada; motor carrier; Hanover Ins. Co. D 8/2/83	May 30, 1977	Mar. 21, 1977	Ogdensburg, NY $25,000
Roy Greenfield Trucking, Box 747, Weatherford, TX; motor carrier; Insurance Company of North America (PB 7/22/82) D 7/19/83	June 30, 1983	July 19, 1983	Laredo, TX $25,000
Gulf Canal Lines, Inc., 7501 S. Broadway, St. Louis, MO; water carrier; Washington International Ins. Co. (PB 3/23/68) D 8/5/83 [3]	July 27, 1983	Aug. 5, 1983	Houston, TX $50,000
H. Hansen Transport, 7803-143 Ave., Edmonton, Alberta, Canada; motor carrier; Fireman's Fund Ins. Co. D 7/16/83	Aug. 8, 1973	Aug. 27, 1973	Nogales, AZ $25,000
Hawk of Connecticut, Inc., Outlook St., Stamford, CT; motor carrier; Washington International Ins. Co.	June 30, 1983	June 30, 1983	Bridgeport, CT $25,000
Danny Herman Trucking, Inc., 721 S. Shady St., Mountain City, TN; motor carrier; Peerless Ins. Co.	July 7, 1983	July 7, 1983	Los Angeles, CA $50,000
Hi-Cube Transport, Inc., Holland Rd., Wales, MA; motor carrier; Ins. Co. of North America D 8/9/83	June 25, 1975	June 27, 1975	Providence, RI $25,000
Hurricane Trucking, Inc., 1901 Magnolia, Pasadena, TX; motor carrier; St. Paul Fire & Marine Ins. Co.	July 13, 1983	Aug. 8, 1983	Houston, TX $50,000
Import Distribution Systems, 1041 E. 230th St., Carson, CA; motor carrier; American Casualty Co. of Reading PA. Co.	May 23, 1983	July 25, 1983	Los Angeles, CA $50,000
Juvie's Trucking, 3184 Gale Ave., Long Beach, CA; motor carrier; Washington International Ins. Co.	June 20, 1983	July 5, 1983	Los Angeles, CA $50,000
Kains IRC & D Motor Freight, Inc., U.S. 24 West, End of Bates St., Logansport, IN; motor carrier; Transamerica Ins. Co. (PB 3/29/81) D 8/2/83 [4]	Mar. 29, 1983	Aug. 2, 1983	Chicago, IL $25,000
Land Ocean Transport, Inc., 2035 N. Miami Ave., Miami, FL; motor carrier; Old Republic Ins. Co.	June 15, 1983	Aug. 3, 1983	Miami, FL $50,000
Mack Transportation Co., 4330 Torresdale Ave., Philadelphia, PA; motor carrier; The Aetna Casualty and Surety Co.	June 16, 1983	July 20, 1983	Philadelphia, PA $25,000
Mellow Truck Express, Inc., P.O. Box 23725, Tigard, OR; motor carrier; Fireman's Fund Ins. Co.	July 15, 1983	July 25, 1983	Portland, OR $25,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Merchants Truck Line, Inc., P.O. Box 908, New Albany, MS; motor carrier; The American Ins. Co.	Apr. 8, 1983	July 22, 1983	New Orleans, LA $25,000
Midwest Motor Express, Inc., 1205 Front Ave., Bismarck, ND; motor carrier; Federal Ins. Co. D 9/23/83	July 23, 1968	July 23, 1968	Duluth, MN $25,000
Miller Livestock Truck Co., Inc., Route 11, Box 224, Bakersfield, CA; motor carrier; Peerless Ins. Co. D 8/1/83	Aug. 9, 1982	Aug. 27, 1982	Laredo, TX $25,000
Montgomery Tank Lines, Inc., 7745 W. 59th St., Summit, IL; motor carrier; Employers Mutual Casualty Co. D 8/10/83	July 30, 1982	Sept. 24, 1982	Chicago, IL $50,000
Myers Airspeed, Div. of F.W. Myers & Co., Inc., Rouses Point, NY; air freight forwarder; Massachusetts Bay Ins. Co. (PB 7/26/76) D 7/19/83 [5]	July 15, 1983	July 20, 1983	Ogdensburg, NY $50,000
Oval Transport, 1201 Corbin St., Port Elizabeth, NJ; motor carrier; American Insurance Co.	July 28, 1983	Aug. 2, 1983	Newark, NJ $50,000
Pacific States Transport Inc. (PST), 505 South 800 West, Linden, UT; motor carrier; Insurance Company of North America	June 22, 1983	July 22, 1983	Great Falls, MT $25,000
Seminole Intermodal Transport, Inc., 85 East Gay St., Cleveland, OH; motor carrier; Protective Ins. Co.	June 29, 1983	July 26, 1983	Cleveland, OH $50,000
Service Express Transport, Ltd., 2929 4th Ave., Minneapolis, MN; motor carrier; Continental Western Ins. Co.	May 17, 1983	July 12, 1983	Minneapolis, MN $50,000
Service Transport, Inc., P.O. Box 2749, Cookeville, TN; motor carrier; Liberty Mutual Ins. Co.	July 14, 1983	Aug. 1, 1983	New Orleans, LA $25,000
Southern Maritime Transport, Inc., 9314 Wallisville Rd., Houston, TX; motor carrier; Peerless Ins. Co.	June 30, 1983	July 14, 1983	Houston, TX $50,000
Strickland Transportation Co., Inc., 11353 Reed Hartman Highway, Cincinnati, OH; motor carrier; The American Druggists' Ins. Co. D 9/20/82	June 22, 1979	July 30, 1979	Houston, TX $25,000
Sunbelt Express, Inc., 4425 Irving Blvd., Dallas, TX; motor carrier; Western Surety Co.	July 7, 1983	Aug. 3, 1983	Dallas/Fort Worth, TX $25,000
U.S. Transport, Inc., 14307 Still Meadow, Houston, TX; motor carrier; Lawyers Surety Corp.	July 25, 1983	July 25, 1983	Houston, TX $25,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
sh Bros., Inc., U.S. Route 1, Kittery, E; motor carrier; The American Ins)	June 9, 1983	July 27, 1983	Portland, ME $25,000

Principal is Gemini Trucking, Inc.
Principal is Smith Transport (International) Limited.
Surety is St. Paul Fire & Marine Ins. Co.
Principal is Kain's Motor Service Corp. Surety is Hanover Ins. Co
Principal is Airspeed, Inc.; Surety is The Hanover Ins. Co.

BON-3-03
216173

GEORGE C. STEUART
(For Marilyn G. Morrison, Director,
Carriers, Drawback and Bonds Division).

(T.D. 83-175)

Bonds

roval and discontinuance of bonds on Customs Form 7587 for the control of
struments of International Traffic of a kind specified in section 10.41a of the
ustoms Regulations

Bonds on Customs Form 7587 for the control of instruments of
ernational traffic of a kind specified in section 10 41a of the Cus-
ns Regulations have been approved or discontinued as shown
ow. The symbol "D" indicates that the bond previously outstand-
has been discontinued on the month, day, and year represented
the figures which follow. "PB" refers to a previous bond, dated
represented by the figures in parentheses immediately following
ich has been discontinued. If the previous bond was in the name
a different company or if the surety was different, the informa-
n is shown in a footnote at the end of the list.

Dated: August 17, 1983.

File: 216170.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
rican Oceanic Shipping Corp., 837 Gra- r St., New Orleans, LA; Old Republic Co PB 5/21/81) D 5/25/83 [1]	May 25, 1983	May 26, 1983	New York Seaport $50,000
gestone Tire Manufacturing (U.S.A.),). Box 3000, I-24 & Waldron Rd., La- rgne, TN, Old Republic Ins. Co.	Aug. 8, 1983	Aug. 8, 1983	New Orleans, LA $10,000

otnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Calabrian International Corp., 26 Broadway, New York, NY; Investors Ins. Co. of America D 8/13/83	Aug. 14, 1979	Aug. 15, 1979	New York Seaport $10,000
Carriers Maritime Agency, Inc., 17 Battery Place, New York, NY; American Casualty Company of Reading, PA (PB 6/28/82) D 6/17/83	July 27, 1983	July 28, 1983	New York Seaport $10,000
Chester, Blackburn & Roder, Inc. (A N.Y. Corp.), One World Trade Center, Suite 1035, New York, NY; Federal Ins. Co. D 6/27/83	Aug. 29, 1975	Aug. 19, 1975	New York Seaport $10,000
Great Lakes Chemical Corp., P.O. Box 2200, W. Lafavette, IN; Washington International Ins. Co. D 8/3/83	Aug. 10, 1982	Aug. 12, 1982	New Orleans, LA $10,000
Green Marine Service, Ltd.—see Japan Line (U.S.A.) Ltd.			
ITEL Container International B.V., 2 Embarcadero Center, San Francisco, CA; Sentry Insurance a Mutual Co. D 6/29/83	May 26, 1979	Jun 12, 1979	San Francisco, CA $10,000
Japan Line (U.S.A.) Ltd. d/b/a Green Marine Service, Ltd., One Wilshire Blvd., Suite 2701, Los Angeles, CA; St. Paul Fire & Marine Ins. Co. D 7/19/83	May 10, 1978	June 2, 1978	Los Angeles, CA $50,000
Jardine Air Cargo (US) Ltd., 144-35 157th St., Jamaica, NY; Old Republic Ins. Co.	July 1, 1983	July 5, 1983	New York Seaport $100,000
McGiffin & Co., Inc., 1510 Talleyrand Ave., Jacksonville, FL, Federal Ins. Co.	June 30, 1983	July 22, 1983	Tampa, FL $10,000
Neptune Orient Lines, Ltd., 300 Montgomery St., Ste. 540, San Francisco, CA; Old Republic Ins. Co.	June 7, 1983	July 6, 1983	San Francisco, CA $10,000
Norsk Pacific Steamship Co., Ltd., One Bush St., San Francisco, CA; Continental Casualty Co. (PB 8/30/82) D 6/29/83 [2]	June 27, 1983	June 29, 1983	San Francisco, CA $10,000
Offshore Gases & Chemicals, Inc., 2002 Engineers Rd., Belle Chasse, LA; Old Republic Ins. Co. D 7/5/83	Feb. 26, 1981	Feb. 27, 1981	New Orleans, LA $10,000
Olin Corp., 120 Long Ridge Rd., Stamford, CT; Federal Ins. Co.	June 29, 1983	July 5, 1983	New York Seaport $10,000
Pacific Caribbean Shipping Alabama, Inc., 105 North Conception St., Mobile, AL; Old Republic Ins. Co.	May 31, 1983	June 13, 1983	Mobile, AL $10,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Pacific Northwest Equipment, Inc., 1440 S. Jackson St., Seattle, WA; Washington International Ins. Co. (PB 4/1/81) D 4/22/83 [3]	Apr. 15, 1983	Apr. 22, 1983	Seattle, WA $10,000
Seafood Products Ltd., 2727 Commissioner St., Vancouver, B.C., Canada; Fidelity & Deposit Company of MD D 5/31/83	June 5, 1967	June 9, 1967	Seattle, WA $10,000
Seapac Services, Inc., 433 Hegenberger Rd., Oakland, CA; American Motorists Ins. Co. (PB 12/21/81) D 5/26/83 [4]	May 26, 1983	May 31, 1983	New York Seaport $10,000
Technicon Instruments Corp., 511 Benedict Ave., Tarrytown, NY; Federal Ins. Co. D 6/3/83	Feb. 7, 1975	Feb. 10, 1975	New York Seaport $10,000
Transamerica Steamship Agency, Inc., #1 California St., Suite 2200, San Francisco, CA; Old Republic Ins. Co.	Aug. 8, 1983	Aug. 8, 1983	San Francisco, CA $10,000
U.S. Maritime Agencies—see United Maritime Agencies, Inc.			
United Maritime Agencies, Inc., d/b/a U.S. Maritime Agencies, 40 Rector St., New York, NY; Old Republic Ins. Co.	July 29, 1983	Aug. 4, 1983	New York Seaport $10,000
Worldwide Transport Corp., 63-69 Hook Rd., Bayonne, NJ; Old Republic Ins. Co.	July 29, 1983	July 30, 1983	New York Seaport $10,000

[1] Surety is Washington International Ins. Co.
[2] Surety is St. Paul Fire & Marine Ins. Co.
[3] Principal is Pacific Northwest Equipment Co.
[4] Principal is Seapac Pacific Services, Inc.

BON-3-10

GEORGE C. STEUART
(For Marilyn G. Morrison, Director,
Carriers, Drawback and Bonds Division).

(T.D. 83-176)

Recordation of Trade Name: "United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada"

AGENCY: U.S. Customs Service, Treasury

ACTION: Notice of Recordation

SUMMARY: On May 11, 1983, a notice of application for the recordation under Section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES OF THE PLUMBING AND PIPE FITTING INDUSTRY OF THE UNITED STATES AND

CANADA" was published in the Federal Register (48 FR 21231). The notice advised that before final action on the application, consideration would be given to relevant data, views, or arguments submitted in opposition to the recordation and received not later than July 11, 1983. No responses were received in opposition to the application.

Accordingly, as provided in section 133.14, Customs Regulations (19 CFR 133.14), the name "UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES OF THE PLUMBING AND PIPE FITTING INDUSTRY OF THE UNITED STATES AND CANADA" is recorded as the trade name used by the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, an incorporated association, located at 901 Massachusetts Avenue NW., Washington, D.C. 20001. The trade name is used by the Association to identify its union activities, which include the formation of local labor unions in the plumbing and pipe fitting industry, as well as certifying (1) that pipe, fabricated pipe, welded pipe and fabricated welded pipe formations were made by members of the United Association's local unions and (2) that the services of fabricating and assembling such goods were performed by members of United Association's local unions. The Association's member unions and their members are authorized to use the trade name in the United States and Canada.

DATE: August 24, 1983.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5765).

Dated: August 19, 1983.

Donald W. Lewis,
Director,
Entry Procedures and Penalties Division.

[Published in the Federal Register, August 24, 1983 (48 FR 38569)]

(19 CFR Part 101)

(T.D. 83-177)

Customs Regulations Amendment Relating to the Customs Field Organization; Determination Regarding Proposed Change of Hours of Service at a Customs Port of Entry

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule and determination on proposal.

SUMMARY: This document amends the Customs Regulations by deleting Lochiel, Arizona, from the list of designated Customs stations. This change will enable Customs to obtain more efficient use of its personnel, facilities, and resources. The document also advises the public that Customs has decided not to reduce the hours of service at the Customs port of entry of Naco, Arizona.

EFFECTIVE DATE: September 26, 1983.

FOR FURTHER INFORMATION CONTACT: Denise Crawford, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-8157).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Customs ports of entry and stations are locations where Customs officers are placed for the purpose of accepting the entry of merchandise, collecting duties, examining baggage, clearing passengers, and enforcing the various provisions of the customs laws and other laws.

The significant difference between ports of entry and stations is that at stations, the Federal Government is reimbursed for:

(1) The salaries and expenses of its officers or employees for services rendered in connection with the entry or clearance of vessels; and

(2) Except as otherwise provided by the Customs Regulations, the expenses (including any per diem allowed in lieu of subsistence), but not the salaries, of its officers or employees, for service rendered in connection with the entry or delivery of merchandise on vessels.

In a notice published in the Federal Register on November 29, 1982 (47 FR 53744), Customs proposed: (1) to close the Customs station at Lochiel, Arizona; and (2) to reduce the hours of service at the port of Naco, Arizona, from 24 hours a day to 6 a.m. to 10 p.m.

LOCHIEL, ARIZONA

As stated in the notice, in Fiscal Year 1981, the station at Lochiel, Arizona, did not collect any revenue, did not make any entry examinations, and did not take any enforcement action. Approximately 17 vehicles a day, most of which are noncommercial, use Lochiel to cross the U.S./Mexican border. If Lochiel were to be closed, those vehicles would clear Customs at Nogales, Arizona, 25 miles from Lochiel. Because of the minimal use of Lochiel, Customs believes that the annual cost of operations of $41,218 is not justified.

NACO, ARIZONA

Section 101.6, Customs Regulations (19 CFR 101.6), provides that, with certain exceptions, each Customs office shall be open for the transaction of general Customs business between the hours of 8:30 a.m. and 5:00 p.m., on all days of the year. If, because of local conditions, different but equivalent hours are required to maintain adequate service, such hours shall be observed provided that the Commissioner of Customs approves them and provided further that a notice of business hours is prominently displayed at the principal entrance and in each public room of the Customs office.

The notice also provided that the port of Naco, Arizona, which is open 24 hours a day, experiences very little activity between the hours of 10 p.m. and 6 a.m. Approximately 38 noncommercial vehicles use the Naco port of entry to cross the U.S./Mexican border during those hours, and many of those are repeat crossers. If the port of Naco were to be closed from 10 p.m. to 6 a.m., travelers desiring clearance during these hours could clear Customs at Douglas, Arizona, a 24-hour port located about 30 miles from Naco. The reduction in hours of service would result in an annual savings of $42,130.

DISCUSSION OF COMMENTS

Two comments were received on the proposal to close the Lochiel station, one in support and one in opposition. Although the commenter in opposition states that the closing of Lochiel will work a hardship on the local community, Customs believes that any inconvenience will be minimal. After a further review of the matter, Customs has decided to adopt the proposal to close the Lochiel station.

Several comments were received on the proposal to reduce the hours of service at Naco. One of the comments was in favor of the proposal and the rest were in opposition. Customs also recieved two lengthy petitions of signatures opposing the change. The commenters in opposition state that the proposal would inconvenience travelers and have a detrimental effect on the tourist trade and local business. After a further review of this proposal, Customs has decided to keep the port of Naco open 24 hours a day.

LIST OF SUBJECTS IN 19 CFR PART 101

Customs duties and inspection, Exports, Imports, Organization and functions (Government agencies).

AMENDMENT TO THE REGULATIONS

PART 101—GENERAL PROVISIONS

Because Customs is closing the station at Lochiel, Arizona, section 101.4(c), Customs Regulations (19 CFR 101.4(c)), is amended by revising the entry beginning with the District of Nogales, Arizona to read as follows:

District	Customs Stations	Port of Entry having supervision
* * *	* *	* *
Nogales, Ariz.	Tucson, Ariz.	Nogales
* * *	* *	* *

(Section 301, 80 Stat. 379, section 1, 37 Stat. 434, R.S. 251, as amended, section 624, 46 Stat. 759 (5 U.S.C. 301, 19 U.S.C. 1, 66, 1624))

EXECUTIVE ORDER 12291

Because this amendment relates to the organization of the Customs Service, pursuant to section 1(a)(3) of Executive Order 12291, it is not a regulation or rule subject to that E.O.

REGULATORY FLEXIBILITY ACT

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this document because the amendment will not have a significant economic impact on a substantial number of small entities. The amendment is not expected to have significant secondary or incidental effects on a substantial number of small entities, or to impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the amendment will not have a significant economic impact on a substantial number of small entities.

DRAFTING INFORMATION

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

ALFRED R. DE ANGELUS,
Acting Commissioner of Customs.

Approved: July 19, 1983.
ROBERT E. POWIS,
Acting Assistant Secretary of the Treasury.

[Published in the Federal Register, August 26, 1983 (48 FR 38813)]

(T.D. 83-178)

Recordation of Trade Name: "Underground Camera, Inc."

AGENCY: U.S. Customs Service, Department of the Treasury

ACTION: Notice of Recordation

SUMMARY: On May 6, 1983, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "UNDERGROUND CAMERA, INC." was published in the Federal Register (48 FR 20531). The notice advised that before final action on the application, consideration would be given to relevant data, views, or arguments submitted in opposition to the recordation and received not later than July 5, 1983. No responses were received in opposition to the application.

Accordingly, as provided in section 133.14, Customs Regulations (19 CFR 133.14), the name "UNDERGROUND CAMERA, INC." is recorded as the trade name used by Underground Camera, Inc., a corporation organized under the laws of the State of Massachusetts, located at 369 Central Street, Foxboro, Massachusetts 02035. The trade name is used in connection with photographic equipment, namely, cameras and lenses; photographic supplies, namely, photographic film and chemicals; and photographic accessories, namely, camera supports and illuminators. The trade name is applied to the goods in the United States.

DATE: August 25, 1983.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5765).

Dated: August 19, 1983.

DONALD W. LEWIS,
Director,
Entry Procedures and Penalties Division.

[Published in the Federal Register, August 25, 1983 (48 FR 38708)]

(T.D. 83-179)

Recordation of Trade Name: "Players and Spectators a Drinking and Gaming Establishment"

AGENCY: U.S. Customs Service, Treasury

ACTION: Notice of Recordation

SUMMARY: On May 17, 1983, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15

U.S.C. 1124), of the trade name "PLAYERS & SPECTATORS A DRINKING AND GAMING ESTABLISHMENT," was published in the Federal Register (48 FR 22252). The notice advised that before final action on the application, consideration would be given to relevant data, views, or arguments submitted in opposition to the recordation and received not later than July 18, 1983. No responses were received in opposition to the application.

Accordingly, as provided in section 133.14, Customs Regulations (19 CFR 133.14), the trade name "PLAYERS & SPECTATORS A DRINKING AND GAMING ESTABLISHMENT" is recorded as the trade name used by Players & Spectators, Inc., a corporation organized under the laws of the State of Washington, located at East 27 Augusta, Spokane, Washington 99207. The trade name is used in connection with a combined restaurant, tavern and amusement game services and franchise business.

DATE: September 2, 1983

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5765).

Dated: August 25, 1983.

Donald W. Lewis,
Director,
Entry Procedures and Penalties Division.

[Published in the Federal Register, September 2, 1983 (48 FR 40055)]

(T.D. 83-180)

Bonds

Approval and discontinuance of consolidated aircraft bonds (air carrier blanket bonds), Customs Form 7605.

The following consolidated aircraft bonds have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: August 24, 1983.

Name of principal and surety	Date term commences	Date of approval	Filed with district director/area director/amount
Transbrasil S.A. Linhas Aereas, aka: Transbrazil Airlines, P.O. Box 520862, Miami, FL; American Casualty Co. of Reading, PA.	July 26, 1983	Aug. 11, 1983	New York Seaport $100,000

The foregoing principal has been designated as a carrier of bonded merchandise.

BON-3-01
216207

George C. Steuart
(For Marilyn G. Morrison, Director,
Carriers, Drawback and Bonds Division).

(T.D. 83-181)

Foreign Currencies—Daily Rates for Countries not on Quarterly List

The Federal Reserve Bank of New York, pursuant to Section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

July 4, 1983, Holiday, use Quarterly Rate

Argentina peso:	
July 5, 1983	$0.123747
July 6-8, 1983	.111857
Chile peso:	
July 5-7, 1983	.012739
July 8, 1983	.012698
Colombia peso:	
July 5-7, 1983	.012729
July 8, 1983	.012666
Greece drachma:	
July 5, 1983	.011813
July 6, 1983	.011820
July 7, 1983	.011834
July 8, 1983	.011813
Indonesia rupiah:	
July 5-7, 1983	.001025
July 8, 1983	.001022

Israel peseta:	
July 5, 1983	.020973
July 6, 1983	.020777
July 7, 1983	.020602
July 8, 1983	.020602
Peru sol:	
July 5–7, 1983	.000629
July 8, 1983	.000616
South Korea won:	
July 5, 1983	.001286
July 6–8, 1983	.001285

(LIQ-03-01 S:C:I)

Dated July 8, 1983.

Angela DeGaetano,
Chief,
Customs Information Exchange.

(T.D. 83-182)

Foreign Currencies—Daily Rates for Countries not on Quarterly List

The Federal Reserve Bank of New York, pursuant to Section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
July 11–15, 1983	$0.111857
Chile peso:	
July 11–14, 1983	.012698
July 15, 1983	.012658
Colombia peso:	
July 11–14, 1983	.012666
July 15, 1983	.012634
Greece drachma:	
July 11, 1983	.011813
July 12–15, 1983	.011820
Indonesia drachma:	
July 11–14, 1983	.001022
July 15, 1983	.001021
Israel shekel:	
July 11, 1983	.020442

July 12–13, 1983	.020338
July 14, 1983	.020113
July 15, 1983	.020040
Peru sol:	
July 11–14, 1983	.000616
July 15, 1983	.000604
South Korea won:	
July 11, 1983	.001284
July 12–15, 1983	.001282

(LIQ-03-01 S:C:I)

Dated: July 15, 1983.

Angela DeGaetano,
Chief,
Customs Information Exchange.

(T.D. 83-183)

Foreign Currencies—Daily Rates for Countries not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372 (c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
July 18–22, 1983	$0.111857
Chile peso:	
July 18–21, 1983	.012658
July 22, 1983	.012579
Colombia peso:	
July 18–21, 1983	.012634
July 22, 1983	.012618
Greece drachma:	
July 18, 1983	.011799
July 19, 1983	.011820
July 20, 1983	.011834
July 21–22, 1983	.011827
Indonesia rupiah:	
July 18–22, 1983	.001021

Israel shekel:	
July 18–19, 1983	.019985
July 20, 1983	.019920
July 21, 1983	.019857
July 22, 1983	.019767
Peru sol:	
July 18–21, 1983	.000604
July 22, 1983	.000593
South Korea won:	
July 18–22, 1983	.001281

(LIQ-03-01 S:C:I)

Dated: July 22, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-184)

Foreign Currencies—Daily Rates for Countries not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372 (c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
July 25–29, 1983	$0.111857
Chile peso:	
July 25–29, 1983	.012579
Colombia peso:	
July 25–28, 1983	.012618
July 29, 1983	.012508
Greece drachma:	
July 25, 1983	.011786
July 26, 1983	.011779
July 27, 1983	.011758
July 28, 1983	.011779
July 29, 1983	.011772
Indonesia rupiah:	
July 25–28, 1983	.001021
July 29, 1983	.001018

Israel shekel:	
July 25, 1983	.019826
July 26–27, 1983	.019771
July 28, 1983	.019670
July 29, 1983	.019554
Peru sol:	
July 25–28, 1983	.000593
July 29, 1983	.000577
South Korea won:	
July 25, 1983	.001281
July 26–27, 1983	.001280
July 28–29, 1983	.001279

(LIQ-03-01 S:C:I)

Dated: July 29, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-185)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to Section 522(C), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-161 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to covert such currency into currency of the United States, conversion shall be at the following rates.

July 4, 1983, Holiday, Use Quarterly Rate

Venezuela bolivar:	
July 8, 1983	$0.082645

(LIQ-03-01 S:C:I)

Dated: July 8, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-186)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rated certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to Section 522(C), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-161 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to covert such currency into currency of the United States, coversion shall be at the following rates.

Venezuela cruzeiro:	
July 11-14, 1983	$0.082645
July 15, 1983	.078740

(LIQ-03-01 S:C:I)

Dated: July 15, 1983.

Angela DeGaetano,
Chief,
Customs Information Exchange.

(T.D. 83-187)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to Section 522(C), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-161 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Brazil cruzeiro:	
July 20-22, 1983	$0.001710
Venezuela bolivar:	
July 18-21, 1983	.078740
July 22, 1983	.074074

(LIQ-03-01 S:C:I)

Dated: July 22, 1983.

Angela DeGaetano,
Chief,
Customs Information Exchange.

(T.D. 83-188)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-161 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Brazil cruzeiro:	
July 25, 1983	$0.001710
July 26-28, 1983	.001667
July 29, 1983	.001634
Venezuela bolivar:	
July 25-28, 1983	.074074
July 29, 1983	.067568

(LIQ-03-01 S:C:I)

Dated: July 29, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-189)

Bonds

Approval and discontinuance of consolidated aircraft bonds (air carrier blanket bonds), Customs Form 7605

The following consolidated aircraft bonds have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: September 1, 1983.

Name of principal and surety	Date term commences	Date of approval	Filed with district director/area director/amount
kystar International Inc., 360 B. Belvidere Ave., Washington, NJ; American Casualty Co. of Reading, PA.	Aug. 22, 1983	Aug. 24, 1983	New York Seaport $100,000

The foregoing principal has been designated as a carrier of onded merchandise.

BON-3-01

GEORGE C. STEUART
(For Marilyn G. Morrison, Director,
Carriers, Drawback and Bonds Division).

(T.D. 83-190)

ecision denying domestic interested party petition requesting reclassification of certain acrylic blankets; Petitioner's desire to contest the decision

GENCY: U.S. Customs Service, Department of the Treasury.

CTION: Notice of (1) decision on domestic interested party petion, and (2) receipt of notice of petitioner's desire to contest the ecision.

UMMARY: In response to a petition from a domestic interested arty requesting that certain imported acrylic blankets that have a bric border or capping be reclassified for tariff purposes under e provision for other bedding, ornamented, of man-made fibers, ankets, 363.25, Tariff Schedules of the United States (TSUS), Cusms invited comments on the correctness of the current classificaon. However, no comments were received. Aftr further review of e matter, Customs has advised the petitioner that such blankets ould continue to be classified under the provision for bedding, not namented, of man-made fibers, blankets, in items 363.85, TSUS, a lower rate of duty than for blankets classified under item 3.25, TSUS. Upon being informed that its petition had been nied, the petitioner filed a notice of its desire to contest the decion.

ATE: September 8, 1983.

R FURTHER INFORMATION CONTACT: Phil Robins, Classifiion and Value Division, Office of Regulations and Rulings, U.S. stoms Service, 1301 Constitution Avenue, NW., Washington, D.C. 229 (202-566-8181).

SUPPLEMENTARY INFORMATION:

Background

On April 13, 1982, a petition was filed under section 516, Tarif Act of 1930, as amended (19 U.S.C. 1516), on behalf of Textiles Aso ciados del Caribe, Inc., an American manufacturer of acrylic blan kets, requesting that certain imported acrylic blankets that have fabric border or capping be reclassified under the provision fo other bedding, ornamented, of man-made fibers, blankets, in iter 363.25, Tariff Schedules of the United States (TSUS) (19 U.S.C 1202) at a higher rate of duty. Based on Customs practice that the are not ornamented, such blankets have been classified under th provision for other bedding, not ornamented, of man-made fiber blankets, in item 363.85, TSUS, at a lower rate of duty than fo blankets classified under item 363.25, TSUS.

A notice of receipt of the petition was published in the Federa Register on October 6, 1982 (47 FR 44184), inviting public commer on the correctness of the current classification. Written comment were to have been received on or before December 6, 1982. Howe er, no comments were received.

The petitioner argues that the imported blankets should be cla sified as ornamented because of the fabric edgings around the border. It is contended that these borders are decorative in natu and therefore cause the blankets on which they are located to classified under the ornamented bedding provisions of the tari schedules, specifically item 363.25, TSUS.

The edgings which are described in the petition are, in actualit folded over strips of fabric that encase the edgings of the blanket As such, they constitute capping. It is Customs experience that bo ders or capping of this type almost always *cover unfinished edg* and thus protect and finish the edges. Although the borders or ca pings do add a certain amount of embellishment to the article, it Customs position that the functional purpose performed by the outweighs any decorative effects they may impart.

In regard to those blankets which have borders or cappings th *cover finished edges,* Customs has continually classified such me chandise as ornamented for tariff purposes.

Decision of Petition and Receipt of Petitioner's Notice of Desire to Contest

In a ruling dated March 3, 1983, the petitioner was advised th Customs would adhere to its practice of classifying such blankets nonornamented, it item 363.85, TSUS. In response, by letter dat

April 1, 1983, the petitioner filed a notice of its desire to contest the decision in accordance with section 516(c), Tariff Act of 1930, as amended, (19 U.S.C. 1516(c)), and section 175.23, Customs Regulations (19 CFR 175.23).

After further review of the matter, Customs remains of the opinion that its practice of classifying the subject blankets under item 363.85, TSUS, is correct. This practice will continue unless a decision of the United States Court of International Trade or the United States Court of Appeals for the Federal Circuit not in harmony with this practice is rendered.

This notice is being published in accordance with section 516(c), Tariff Act of 1930, as amended (19 U.S.C. 1516(c)), and section 175.24, Customs Regulations (19 CFR 175.24).

DRAFTING INFORMATION

The principal author of this document was Jesse V. Vitello, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs officers participated in its development.

Dated: July 12, 1983.

WILLIAM VON RAAB,
Commissioner of Customs.

[Published in the Federal Register, September 8, 1983 (48 FR 40593)]

(T.D. 83-191)

Customhouse Broker License—Cancellation With Prejudice

Cancellation With Prejudice of Individual License #4437 for the Customs District of New York

Notice is hereby given that the Commissioner of Customs on August 25, 1983, pursuant to section 641, Tariff Act of 1980, as amended (19 U.S.C. 1641), and section 111.51(b) Customs Regulations, upon the specific request of William J. Shields, Jr., New York, New York, cancelled with prejudice individual customhouse broker's license No. 4437 issued to him for the Customs District of New York, New York. The Commissioner's decision is effective as of August 25, 1983.

Dated: August 25, 1983.

ALFRED R. DE ANGELUS,
Acting Commissioner of Customs.

[Published in the Federal Register, September 12, 1983 (48 FR 40971)]

19 CFR Part 6

(T.D. 83-192)

Private Aircraft Arriving in the United States

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by extending to the Pacific, Gulf of Mexico, and Atlantic Coasts, the area of entry from which private aircraft arriving in the United States must furnish a notice of intended arrival to Customs. The amendments, which were previously published on an interim basis, further provide that the aircraft required to furnish such notice must land for Customs processing at the *nearest* designated airport to the point of crossing the United States border or coastline. Prior to the interim change, the regulation provided for a notice of intended arrival only for private aircraft arriving in the United States via the U.S./Mexican border, and provided for landing at any of several designated airports.

The amendments are necessary because of the severity of the drug abuse problem, the major increase in illegal drug importations and the need for immediate action to expand the effectiveness of drug smuggling enforcement.

EFFECTIVE DATE: September 15, 1983. The interim regulation, published as T.D. 82-52 in the Federal Register on March 24, 1982 (47 FR 12620), and amplified by T.D. 82-88, published in the Federal Register on May 6, 1982 (47 FR 19517), will remain in effect until this final rule takes effect.

FOR FURTHER INFORMATION CONTACT: C. Duane Oveson, Office of Passenger Enforcement and Facilitation, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5607).

SUPPLEMENTARY INFORMATION:

BACKGROUND

The National Narcotics Intelligence Consumers Committee has documented that the supply of illegal drugs to the United States market and the subsequent extent of drug abuse has reached monumental proportions. Illegal drugs generated an estimated $80 billion in retail sales in 1980, a 23-percent increase from 1979. The severity of the drug abuse problem, the preponderance of drug users, and the major increases in volumes of illegal drug importations in the United States are indicated by the significant increase in drug-related deaths, medical care, arrests, and seizures.

The smuggler organization has solidified a dominant position in the United States through the penetration of strategic points in the economy. Countries to the south of the United States are major sources of illegal drugs destined for the United States. Smuggling by air is the preferred mode of transportation for low-volume, high-cost narcotics. Private aircraft account for the highest volume and largest individual loads of these drugs. A Stanford Research Institute Study indicates the magnitude of the air smuggling threat at approximately 6,700 flights annually, involving approximately 1,000 private aircraft. Although recent air interdiction activities in the southeastern United States have resulted in many arrest and seizures, an end to the present situation of drug abuse in the United States is not in sight.

In order to address this national problem, it is necessary to take action to expand the effectiveness of smuggling enforcement. In 1975, the Customs Regulations were amended by adding a new section 6.14 (19 CFR 6.14), to provide for a notice of intended arrival for private aircraft arriving in the United States via the United States/Mexican border. Section 6.14 further provided that such private aircraft land at any one of 14 designated airports along the United States/Mexican border.

Because of the magnitude of the drug problem, and in direct response to Executive and Congressional directives, by an interim regulation published as T.D. 82-52 in the Federal Register on March 24, 1982 (47 FR 12620), effective April 1, 1982, the notice requirement was extended to private aircraft arriving in the United States via the Gulf of Mexico and Atlantic Coasts. The interim regulation further provided that the aircraft required to furnish such notice must land at the *nearest* designated airport to the United States border or coastline crossing point. The list of designated airports also was expanded.

By T.D 82-88, published in the Federal Register on May 6, 1982 (47 FR 19517), two additional airports were added to the list of designated airports in section 6.14.

Pursuant to T.D. 82-52, interested parties were given until May 24, 1982, to submit comments on the interim regulations.

DISCUSSION OF COMMENTS

Numerous public comments were received in response to T.D. 82-52. The comments are generally supportive of Customs goal to expand the effectiveness of drug smuggling enforcement. The primary concerns expressed were the manner of imposition of the interim regulation, the airports which were designated in section 6.14(g), and the effect of the regulation upon local businesses and individuals.

Several commenters criticize the manner of imposition of the interim regulation. It is contended that insufficient notice was provided to the public before the regulation took effect, that there was no consultation with interested parties prior to issuance, and that the document did not comply with the provisions of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*).

Customs acknowledges that the public had minimal notice prior to the effective date of the interim regulation. However, as stated in T.D. 82-52, in order to address the national drug smuggling problem, it was necessary for Customs to take immediate action to expand the effectiveness of its smuggling enforcement. The changes to section 6.14 were made in direct response to Executive and Congressional directives. The amendments provide Customs with positive entry control to increase enforcement capability by identifying private aircraft which may be involved in smuggling activity. T.D. 82-52 also stated that, because of the severity of the drug abuse problem, the major increase in illegal drug importations, and the need for immediate action, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure were impracticable, unnecessary, and contrary to the public interest. Pursuant to 5 U.S.C. 553(d)(3), a delayed effective date was dispensed with. T.D. 82-52 solicited public comments, and those comments have been carefully considered in the formulation of the final rule.

A number of comments address the designation of airports in section 6.14(g). Most of these comments state the need for designation of additional individual airports. One urges the designation of 10 additional airports. The comments are concerned with the effect of the landing requirement in section 6.14(d) on individual aircraft and on local businesses located at non-designated airports.

Customs has determined that the New Orleans Lakefront Airport in New Orleans, Louisiana, will be added to the list of designated airports. This addition is being made because of congestion at the other nearby designated airport, New Orleans International Airport (Moisant Field), and because of the ease with which Customs service may be provided to New Orleans Lakefront Airport.

No other additions will be made to the list of designated airports. We believe that the purpose of amending section 6.14, to expand the effectiveness of drug smuggling enforcement, is best served by the designated airports listed in the interim regulation, with the addition of New Orleans Lakefront Airport. Additional designated airports will not assist Customs goals of the collection of air intelligence and the identification of smuggler aircraft. Furthermore, Customs does not believe that the flow of air traffic makes the designation of additional airports necessary. In individual cases where the landing requirement would result in undue hardship, an exemption from the landing requirement may be requested pursuant to section 6.14(f).

One comment states that the interim regulation is technically inadequate, and suggests certain changes.

Changes to Interim Regulation

After consideration of the comments and further review of T.D. 82-52, several changes have been made in the final rule.

The scope of section 6.14(a) has been expanded to include the Pacific Coast. This change is consistent with the intent of amending section 6.14, and the change makes paragraph (a) parallel paragraph (b), which pertains to the Gulf and Atlantic Coasts. It is not believed that this addition will have a major impact upon private aircraft since most private aircraft subject to section 6.14(a) will enter the United States via the Mexican border. As a result of the inclusion of the Pacific Coast within the scope of section 6.14(a), the words of the interim regulation "and between 97 degrees and 120 degrees west longituide," which were intended to modify the crossing point into the United States, are inappropriate, and have been deleted.

In section 6.14(b), the departing area for private aircraft which must report has been changed from "a foreign place in the Western Hemisphere south of 31 degrees north latitude" to "a foreign place in the Western Hemisphere south of 30 degrees north latitude or from any place in Mexico." This change has been made to have section 6.14 conform with the Federal Aviation Administration Regulations with respect to flight plan filing (Part 199, Federal Aviation Regulations (14 CFR Part 199)). The words "or from any place in Mexico" have been added because there are points in Mexico above 30 degrees north latitude, and it is intended that all private aircraft departing from Mexico be subject to section 6.14. The statement in T.D. 82-52 that notice may occur anytime while the aircraft is within the Gulf of Mexico Coastal or Atlantic Coastal ADIZ has been eliminated because it was unnecessary.

Section 6.14(c)(7) has been changed to reflect the landing requirement of section 6.14(d).

Several changes have been made to section 6.14(f). In the second sentence as it was published in T.D. 82-52 (the third sentence in the final rule), the word "desired" has been substituted for the word "required." A sentence has been added to section 6.14(f)(1) stating that approval of an exemption from the landing requirement of section 6.14(d) is at the discretion of Customs. This is not a substantive change, but has been inserted for clarification. Also, section 6.14(f)(1) has been revised to require additional information in a request for an exemption from the landing requirement. A new section 6.14(f)(2) has been added to cover the reporting requirement when a private aircraft has been granted an exemption from the landing requirement and the aircraft is crossing into the United States over a point on the Pacific Coast north of 33 degrees north latitude, or over a point on the Gulf or Atlantic Coasts north of 30 degrees north latitude. A new section 6.14(f)(3) has been added to state that the owner or aircraft commander of a private aircraft granted an exemption from the landing requirement must notify Customs upon the sale of the aircraft, change in registration number, or change in authorized pilot or crewmembers. That section has also been amended to state that one pilot or crewmember as identified in paragraph (f)(1)(v) must be present on every flight to maintain exemption status.

In section 6.14(g), the New Orleans Lakefront Airport in New Orleans, Louisiana, has been added to the list of designated airports.

In addition, several minor, non-substantive changes have been made for the purpose of clarity.

EXECUTIVE ORDER 12291

This amendment is not a "major rule" as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

PAPERWORK REDUCTION ACT

The Paperwork Reduction Act of 1980 requires that Customs must inform the public why it is collecting this information, how it will use it, and whether it must be given to Customs. Customs requires the information in order to carry out the laws and regulations which it administers. This regulation applies to private aircraft arriving in the United States via the U.S./Mexican border or the Atlantic, Pacific and Gulf Coasts, and it relates to the processing of the aircraft and its passengers. The information is used for arranging appropriate Customs services for arrival inspection processing and enhanced enforcement entry control for effective violator interdiction. The requirements are mandatory but the regulation provides a means for requesting an exemption from the landing requirement. The granting of the exemption is at the authority of Customs. Pursuant to the Paperwork Reduction Act of 1980, the Office of Management and Budget has assigned control number 1515-0098 to the reporting requirements contained in this document.

REGULATORY FLEXIBILITY ACT

It is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule will not have a significant economic impact on a substantial number of small entities. The rule's provision for exemption from the landing requirement will serve to sufficiently lessen any significant economic impact or burden on small entities that would otherwise occur. Although the rule will have an economic impact on owners of small aircraft that are not able to obtain an exemption from the landing requirement, as well as on fixed base operators at airports that are not designated airports under the rule, Customs believes that, overall, there will not be a significant economic impact on a substantial number of small entities.

DRAFTING INFORMATION

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

LIST OF SUBJECTS IN 19 CFR PART 6

Customs duties and inspection, Imports, Air transportation, Aircraft, Airports.

AMENDMENTS TO THE REGULATIONS

Part 6, Customs Regulations (19 CFR Part 6), is amended as set forth below.

WILLIAM VON RAAB,
Commissioner of Customs.

Approved: May 26, 1983.
JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, September 15, 1983 (48 FR 41381)]

PART 6—AIR COMMERCE REGULATIONS

Section 6.14 is revised to read as follows:

§ 6.14 Private aircraft arriving from areas south of the United States.

(a) *Advance report of penetration of United States airspace via United States/Mexican border or Pacific Coast.* All private aircraft arriving in the United States via the United States/Mexican border or the Pacific Coast from a foreign place in the Western Hemisphere south of 33 degrees north latitude shall furnish a notice of intended arrival to the Customs Service at the *nearest* designated airport to point of crossing listed in paragraph (g) of this section for first landing in the United States. The notice must be furnished at least 15 minutes before crossing the United States border or coastline. The notice may be furnished directly to Customs by telephone, radio, or other means, or may be furnished through the Federal Aviation Administration to Customs.

(b) *Advance report of penetration of United States airspace via Gulf and Atlantic Coasts.* All private aircraft arriving in the United States via the Gulf of Mexico or Atlantic Coasts from a foreign place in the Western Hemisphere south of 30 degrees north latitude or from any place in Mexico shall furnish a notice of intended arrival to the Customs Service at the *nearest* designated airport to point of crossing listed in paragraph (g) of this section for first landing in the United States. The notice must be furnished at least 15 minutes before crossing the United States coastline. The notice may be furnished directly to Customs by telephone, radio, or other means, or may be furnished through the Federal Aviation Administration to Customs.

(c) *Notice to Customs.* The notice to Customs required by paragraphs (a) and (b) of this section shall include the following:

(1) Aircraft registration number;

(2) Name of aircraft commander;

(3) Number of United States citizen passengers;

(4) Number of alien passengers;

(5) Place of last departure (foreign);

(6) Estimated time and location of crossing United States border/coastline;

(7) Name of United States airport of first landing (designated airport listed in paragraph (g) of this section *nearest* to point of crossing unless an exemption has been granted in accordance with paragraph (f) of this section); and

(e) Estimated time of arrival.

(d) *Landing requirement.* Private aircraft required to furnish a notice of intended arrival in compliance with paragraphs (a), (b), and (c) of this section shall land for Customs processing at the *nearest* designated airport to the border or coastline crossing point as listed in paragraph (g) of this section, unless exempted from this requirement in accordance with paragraph (f) of this section. In addition to the requirements of this paragraph, private aircraft commanders must comply with all other landing and notice of arrival requirements.

(e) *Private aircraft defined.* For the purpose of this section, "private aircraft" means any aircraft other than an aircraft engaged in the transportation of passengers or cargo or both, for hire.

(f) *Exemption from the landing requirement.* (1) The owner or aircraft commander of a private aircraft required to furnish a notice of intended arrival in compliance with paragraphs (a), (b), and (c) of this section may request an exemption from the landing requirement specified in paragraph (d) of this section. Approval of the request and granting of authority to be exempted from the landing requirement specified in paragraph (d) are at the discretion of the district director of Customs. The request shall be submitted to the district director in charge of the airport at which Customs processing is desired and shall be submitted at least 30 days before the anticipated first arrival if the request is for an exemption covering a number of flights over a period of 1 year, or at least 15 days before the anticipated arrival if the request is for a single flight. The request shall include the following information:

(i) Aircraft registration number;

(ii) Aircraft identity (make, model number, color, and type, such as turboprop, turbojet, reciprocating, helicopter, etc.);

(iii) Whether aircraft is transponder-equipped (yes or no);

(iv) Name, address, and date of birth of owner(s) of the aircraft (if the aircraft is being operated pursuant to a lease, the name, address, and date of birth of the lessee, in addition to that of the owner);

(v) Names, addresses, and dates of birth of usual or anticipate pilots and crewmembers;

(vi) Names, addresses, and dates of birth of usual or anticipated passengers, to the extent possible;

(vii) Description of usual or anticipated baggage or cargo;

(viii) Description of company's usual business activity, if aircraft is company-owned;

(ix) Name of airport(s) of intended first landing in the United States;

(x) Foreign place or places from which flight(s) will usually originate; and

(xi) Reason for request for overflight exemption.

(2) If a private aircraft is granted an exemption from the landing requirement specified in paragraph (d) of this section, and if the aircraft is crossing into the United States over a point on the Pacific Coast north of 33 degrees north latitude, the aircraft must furnish notice to Customs in accordance with paragraph (c) of this section at least 15 minutes before crossing 33 degrees north latitude. Similarly, if a private aircraft is granted an exemption from the landing requirement specified in paragraph (d) of this section, and if the aircraft is crossing into the United States over a point on the Gulf or Atlantic Coast north of 30 degrees north latitude, the aircraft must furnish notice to Customs in accordance with paragraph (c) of this section at least 15 minutes before crossing 30 degrees north latitude. The notice shall be given to a designated airport specified in paragraph (g) of this section. The notice may be furnished directly to Customs by telephone, radio, or other means, or may be furnished through the Federal Aviation Administration to Customs. If notice is furnished pursuant to this paragraph, notice pursuant to paragraphs (a) and (b) of this section is unnecessary.

(3) The owner or aircraft commander of a private aircraft granted an exemption from the landing requirement must:

(i) Notify Customs of a change of Federal Aviation Administration registration number for the aircraft;

(ii) Notify Customs of the sale of the aircraft; and

(iii) Notify Customs of changes of usual or anticipated pilots or crewmembers, as specified in paragraph (f)(1)(v) of this section. One pilot or crewmember as identified in paragraph (f)(10)(v) of this section must be present on every flight to maintain exemption status. The notifications specified in this paragraph must be given to Customs within 5 working days of the change or sale, or before a flight for which there is an exemption, whichever occurs earlier.

(g) *Designated airports.*

Location	Name
Beaumont, Tex	Jefferson County Airport
Brownsville, Tex	Brownsville International Airport
Calexico, Calif	Calexico International Airport
Corpus Christi, Tex	Corpus Christi International Airport
Del Rio, Tex	Del Rio International Airport
Douglas, Ariz	Bisbee-Douglas International Airport
Eagle Pass, Tex	Eagle Pass Municipal Airport
El Paso, Tex	El Paso International Airport
Fort Lauderdale, Fla	Fort Lauderdale Executive Airport
Fort Lauderdale, Fla	Fort Lauderdale-Hollywood International Airport
Fort Pierce, Fla	St. Lucie County Airport
Houston, Tex	William P. Hobby Airport
Key West, Fla	Key West International Airport
Laredo, Tex	Laredo International Airport
McAllen, Tex	Miller International Airport
Miami, Fla	Miami International Airport
Miami, Fla	Opa-Locka Airport
New Orleans, La	New Orleans International Airport (Moisant Field)
New Orleans, La	New Orleans Lakefront Airport
Nogales, Ariz	Nogales International Airport
Presidio, Tex	Presidio-Lely International Airport
San Diego, Calif	Brown Field
San Diego, Calif	San Diego International Airport (Lindbergh Field)
Tampa, Fla	Tampa International Airport
Tucson, Ariz	Tucson International Airport
West Palm Beach, Fla	Palm Beach International Airport
Yuma, Ariz	Yuma International Airport

(R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 1109, 72 Stat. 799, as amended (19 U.S.C. 66, 1624, 49 U.S.C. 1509))

(T.D. 83-193)

Bonds

Approval and discontinuance of Carrier's Bonds, Customs Forn 3587

Bonds of carriers for the transportation of bonded merchandi have been approved or discontinued as shown below. The symb "D" indicates that the bond previously outstanding has been d continued on the month, day, and year represented by the figur which follow. "PB" refers to a previous bond, dated as represent by the figures in parentheses immediately following, which h been discontinued. If the previous bond was in the name of a d ferent company or if the surety was different, the information shown in a footnote at the end of the list.

Dated: September 13, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Air Link Corp, 2626 Wauwatosa Ave, Milwaukee, Wisconsin; air carrier; Washington International Ins. Co.	July 11, 1983	Aug. 29, 1983	Boston, MA $50,000
Badger Freightways, Inc., 2720 North 19th Street, Sheboygan, WI; motor carrier; Washington International Ins. Co D 09/12/83	July 7, 1981	Aug 18, 1981	Milwaukee, WI $25,000
Boncosky Transportation, Inc.; 1301 Industrial Drive, Algonquin, IL; motor carrier; North River Ins. Co.	June 15, 1983	Aug. 30, 1983	Chicago, IL $25,000
Burlington Northern Air Freight, Inc., 9920 La Cienega Blvd., Inglewood, California; freight forwarder; Federal Ins. Co. (PB 07/26/76) D 07/25/83[1]	July 26, 1983	July 26, 1983	Los Angeles, CA $50,000
Channel Distribution System, 8711 City Park Loop, Suite 940, Houston, Texas; Motor carrier; Washington International Ins. Co. (PB 12/31/75) D 11/10/82[2]	Nov. 8, 1982	Nov. 10, 1982	Houston, TX $25,000
D.O.B. Express, Inc., 454 Alverio Street, Roosevelt, Puerto Rico; motor carrier; New Hampshire Ins. Co. (PB 08/06/71) D 08/05/83[3]	Aug. 3, 1983	Aug. 5, 1983	San Juan, PR $25,000
Wayne Daniel Truck Inc., P.O. Box 303, Mount Vernon, MO; motor carrier; Northwestern National Ins. Co. of Milwaukee, WI.	June 1, 1983	Aug. 22, 1983	St. Louis, MO $50,000
Distribution Carrier, Inc., 6178 Steubenville Pike, McKees Rocks, PA; motor carrier; The Travelers Indemnity Co	Dec. 30, 1982	July 28, 1983	Philadelphia, PA $100,000
Druss Army & Navy Store, 2310 Market Street, Galveston, Texas; motor carrier; American Indemnity Co. D 05/03/72	Aug. 28, 1983	Aug. 29, 1983	Galveston, TX $10,000
Tom Gourley Trucking Ltd., 19939-35A Avenue, Langely, B.C., Canada; motor carrier; St. Paul Fire & Marine Ins. Co.	Aug. 8, 1983	Aug. 8, 1983	Seattle, WA $25,000
Gross Common Carrier, Inc., 660 West Grand Avenue, Wisconsin Rapids, WI; motor carrier; Sentry Indemnity Co.	Aug. 9, 1983	Aug. 26, 1983	Milwaukee, WI $25,000
R.L. Harrison Trucking Co., Inc., 1107 Airlane Drive, P.O. Box 327, Benton, Arizona; motor carrier; Tri-State Ins. Co.	Aug. 2, 1983	Aug. 24, 1983	Cleveland, OH $100,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
IMFS, Inc/dba/Interstate Systems, P.O. Box 175, 110 Ionia N.W., Grand Rapids, Michigan; motor carrier; The Travelers Indemnity Company. (PB 04/02/83) D 08/30/84[4]	Aug. 25, 1983	Aug. 30, 1983	Detroit, MI $50,000
Inter-City Truck Lines (Canada) Inc., 3033 Universal Drive, Mississauga, Ontario, Canada; motor carrier; Transamerica Ins. Co. (PB 08/02/79) D 08/30/83[5]	July 14, 1983	Aug. 30, 1983	Detroit, MI $50,000
Interstate Systems—See IMFS, Inc.			
Kal Auto Transport, Inc., 175 Turk Street, San Francisco, California; motor carrier; St. Paul Fire & Marine Ins. Co. D 07/05/83	Jan. 18, 1971	Jan. 25, 1971	San Francisco, CA $25,000
King Cartage Company, P.O. Box 015995, Miami, Florida; motor carrier; Sentry Indemnity Co.	June 29, 1983	Aug. 19, 1983	Miami, FL $50,000
Larry's Cartage Co., Inc., P.O. Box 2009, Bridgeview, Ill.; motor carrier; National Surety Corporation.	June 26, 1983	Aug. 19, 1983	Chicago, IL $35,000
Lone Star Co., 4447 North Central Expressway, Dallas, Texas; motor carrier; Northwestern National Casualty Co. D 08/16/83	Feb. 11, 1969	Mar. 6, 1969	Houston, TX $25,000
Miller Livestock Truck Co., Inc., Route 11, Box 224, Bakersfield, California motor carrier; Insurance Company of North America.	July 8, 1983	Sept. 1, 1983	Laredo, TX $25,000
OST Trucking Co., Inc., 320 Northpoint Road, Baltimore, Maryland; motor carrier; Insurance Company of North America.	Aug. 15, 1983	Aug. 19, 1983	Washington, DC $25,000
Ogden & Moffett Co., Inc.—See R-W Service System, Inc.			
R-W Service System, Inc., and its division, Ogden & Moffett Co., Inc. 20225 Goddard Road, Taylor, Michigan; motor carrier; Protective Ins. Co. (PB 04/01/82) D 08/31/83[6]	Apr. 27, 1983	Aug. 31, 1983	Detroit, MI $50,000
Richmond Express Co., 1201 Corbin Street, Elizabethport, New Jersey; motor carrier; Washington International Ins. Co.	Aug. 9, 1983	Aug. 18, 1983	Newark, NJ $50,000
Sea-Gal Express, Inc., Box 198, Wickatunk, New Jersey; motor carrier; Washington International Ins. Co.	July 25, 1983	Aug. 18, 1983	Newark, NJ $50,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Sea-Trade Services, Inc., 20 South Idaho Street, Seattle, Washington; motor carrier; Insurance Company of North America.	June 29, 1983	Aug. 10, 1983	Seattle, WA $25,000
Texas Interstate Motor Express, Inc., 2410 Commerce Street, Houston, Texas; motor carrier; Peerless Ins. Co. D 02/09/80	Feb. 20, 1976	Mar. 10, 1976	Houston, TX $25,000
Three Rivers Trucking, Inc., Legionville Road, Ambridge, Pennsylvania; motor carrier; The American Ins. Co.	Aug. 25, 1983	Aug. 25, 1983	Philadelphia, PA $25,000
Towpich Express Lines Ltd., 2840 58 Avenue SE, Calgary, Alberta, Canada; motor carrier; The Ins. Co. of North America.	July 22, 1983	Aug. 26, 1983	Great Falls, MT $25,000
Western Marine Supply, Inc., 5930—6th Avenue South, Seattle, Washington; motor carrier; The Aetna Casualty & Surety Company. (PB 01/10/76) D 08/19/83	Aug. 19, 1983	Aug. 19, 1983	Seattle, WA $25,000
Wick's Airfreight, Inc., 17609-11th Avenue, N.E., Arlington, Washington; motor carrier; Washington International Ins. Co.	Dec. 22, 1980	Dec. 22, 1980	Seattle, WA $25,000
Zales Corporation, 2210 Saint Germaine Road, Dallas, Texas; motor carrier; St. Paul Fire & Marine Insurance Company. D 08/16/81	Feb. 20, 1974	Mar. 18, 1974	Houston, TX $25,000

[1] Surety is Continental Reinsurance Corp. (formerly Pacific Ins. Co.)
[2] Principal is Channel Trucking & Services, Inc.; Surety is St. Paul & Marine Ins. Co
[3] Surety is Ins. Co. of North America.
[4] Principal is IMFS, Inc.
[5] Surety is United States Fidelity & Guaranty Co.
[6] Principal is R-W Service System, Inc./Ogden & Moffet Rainbow Express.

BON-3-03

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-194)

Bonds

Approval and discontinuance of consolidate aircraft bonds (air carrier blanket bonds), Customs Form 7605

The following consolidated aircraft bonds have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: September 9, 1983.

Name of principal and surety	Date term commences	Date of approval	Filed with district director/area director/amount
Air Jamaica (1968) Limited, 19 East 49th Street, New York, N.Y. 10017; American Motorists Insurance Company. D 10/01/83	Feb. 16, 1976	Feb. 11, 1976	New York Seaport $100,000

BON-3-01

Marilyn G. Morrison,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-195)

Revocation of Drawback Contracts

The following Treasury Decisions, providing for the payment drawback on articles manufactured or produced in the Unite States by organizations named, are hereby revoked in accordan with section 22.4(r) of the Customs Regulations.

Dated: September 9, 1983.
File: DRA-1-09
216234

Marilyn G. Morrison,
Director,
Carriers, Drawback and Bonds Division.

T.D.	Name of claimant
54542-N	Aerotec Industries, Inc., Aerotherm Div.
55230-H	Do.
78-380-O	American Oil and Supply Co., Inc.
81-190-B	Atlas Crankshaft Corp.
52692-E	The E. Berghausen Chemical Co.
47008-G	Brooks Piece Dye Works, Inc.
45472-I	Burnham & Morrill Co.
47755-C	Citrus World, Inc.
49091-I	Do.
49091-M	Do.

T.D.	Name of claimant
52049-A	Do.
52325-D	Do.
53568-B	Do.
54173-B	Do.
68-248-N	Do.
71-167-N	Do.
72-338-C	Do.
54077-C	Coca-Cola Bottling Co. of California
55536-I	Do.
81-301-F	Cummins Charleston, Inc.
68-210-D	Cummins Engine Co., Inc.
72-80-C	Do.
80-244-E	Do.
55755-A	E. I. du Pont de Nemours & Co.
71-201-D	Do.
71-201-E	Do.
71-201-F	Do.
71-201-G	Do.
74-221-R	Do.
75-6-K	Do.
75-71-I	Do.
75-71-J	Do.
75-71-K	Do.
75-71-N	Do.
75-115-F	Do.
75-115-G	Do.
75-115-T	Do.
75-312-D	Do.
76-24-M	Do.
76-70-I	Do.
76-282-G	Do.
76-282-H	Do.
76-282-I	Do.
76-282-J	Do.
76-282-K	Do.
76-282-N	Do.
76-282-P	Do.
76-282-Q	Do.
76-282-S	Do.
76-282-T	Do.
76-282-U	Do.
76-282-V	Do.
76-287-U	Do.
76-327-I	Do.
77-59-U	Do.
77-59-V	Do.
77-76-E	Do.
78-233-H	Do.
78-254-I	Do.
80-23-J	Do.
50878-G	Four Wheel Drive Auto Co.
51046-C	Do.
52410-J	Do.
54149-F	Do.
80-200-I	Theresa Friedman & Sons, Inc.
75-139-E	Helena Chemical Co.
54427-A	Holly Hill Fruit Products Co., Inc.
56215-F	Do.
56519-F	Do.
50655-A	Hurty-Peck & Co.
53498-A	Do.
55492-N	Ivy Steel & Wire Co.
56045-F	Do.
80-94-I	Jones & Laughlin Steel Corp. (Youngstown Sheet & Tube Co.)
80-122-N	Koehring Co.

T.D.	Name of claimant
79-129-P	The Lincoln Electric Co.
80-111-M	Lion Hydraulics, Inc.
53002-K	Marathon Electric Manufacturing Corp.
75-297-X	Mason Manufacturing Co.
50714-E	Oscar Mayer & Co., Inc.
44035-L	Merck & Co., Inc.
44417-D	Do.
45330-I	Do.
48592-L	Do.
49414-H	Do.
50033-E	Do.
51016-E	Do.
51204-A	Do.
51346-D	Do.
51445-H	Do.
51976-C	Do.
52743-C	Do.
52824-E	Do.
53365-D	Do.
53649-C	Do.
54283-C	Do.
54368-C	Do.
54525-E	Do.
54575-E	Do.
55151-C	Do.
55252-F	Do.
55401-C	Do.
55479-D	Do.
55580-H	Do.
55972-J	Do.
56060-C	Do.
56197-C	Do.
56197-D	Do.
56197-E	Do.
56197-F	Do.
56197-G	Do.
56197-R	Do.
56436-D	Do.
56506-G	Do.
66-60-D	Do.
66-63-E	Do.
66-63-F	Do.
66-276-G	Do.
66-276-H	Do.
67-41-D	Do.
67-202-L	Do.
68-68-R	Do.
68-248-B	Do.
73-236-K	Do.
73-324-H	Do.
72-186-K	Merck Sharp & Dohme Quimca de Puerto Rico, Inc.
51194-A	National Oil Products Co.
42380-F	Nestle Co., Inc.
44417-A	Do.
45009-E	Do.
47287-J	Do.
48174-F	Do.
49009-B	Do.
49119-A	Do.
51528-C	Do.
51563-D	Do.
51925-B	Do.
52152-A	Do.
52813-E	Do.

T.D.	Name of claimant
2926-B	Do.
3036-B	Do.
3094-A	Do.
3971-C	Do.
4248-F	Do.
5601-B	Do.
6132-E	Do.
6-214-L	Do.
1-167-G	Do.
9450-A	North American Aviation, Inc.
9792-A	Do.
2530-D	Northwestern Fisheries Co.
9723-M	Northwestern Steel & Wire Co.
5223-B	Peavey Co. Flour Mills
9-74-B	Do.
3-148-X	Plywood Panels, Inc.
3-226-X	Do.
4-221-Y	Do.
4-279-Y	Do.
9-234-J	Realist, Inc.
4631-B	R. J. Reynolds Tobacco Co.
9021-B	Do.
2962-B	Do.
3656-A	Do.
4-87-V	Do.
-260-W	Do.
2406-A	Rhodia, Inc.
2970-O	Do.
635-V	Do.
069-H	Do.
688-B	Do.
841-A	Do.
385-D	Do.
596-Q	Do.
870-D	Do.
-98-C	Do.
-98-D	Do.
-98-N	Do.
-98-Y	Do.
-221-C	Ricoh Electronics, Inc.
722-F	Seneca Foods Corp.
224-E	Shaw Dyeing & Finishing Co., Inc.
482-B	Sprague Specialties Co.
-234-P	Thyssen Metal Service/Detroit Corp.
-246-C	United Can Co.
-12-C	Do.
-300-Q	U.S. Industries, Inc., Barsteel Div.
098-D	The S.S. White Dental Manufacturing Co.
562-I	Do.
723-J	Do.
853-B	Winter Garden Citrus Products Cooperative

19 CFR Part 101

(T.D. 83-196)

Change in the Customs Service Field Organization—Huntsville, Alabama

GENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to establish a permanent Customs port of entry at Huntsville, Alabama, in the Mobile, Alabama, Customs district. The Huntsville port of entry has been operating on an experimental basis since July 30, 1980, to see if it could meet the criteria for establishing and staffing a port of entry. As a result of a recently completed review, it has been concluded that the workload will be sufficient to meet the established criteria. The change is part of a continuing program to obtain more efficient use of Customs personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

EFFECTIVE DATE: July 30, 1983.

FOR FURTHER INFORMATION CONTACT: Richard C. Coleman, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8157).

SUPPLEMENTARY INFORMATION:

BACKGROUND

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, by a document published in the Federal Register on July 1, 1980, as T.D. 80-176 (45 FR 44263), effective July 30, 1980, Huntsville, Alabama, was designated as a Customs port of entry in the Mobile, Alabama, Customs district, on a 2-year experimental basis. T.D. 80-176 provided that, at the conclusion of the 2-year period, Customs would make an evaluation of the amount of international business, the continued need for Customs services in the area, and the adequacy of Customs facilities. If the extent of the business or the adequacy of the facilities failed to meet the criteria used by Customs to determine port of entry eligibility, the designation of Huntsville as a port of entry would be revoked.

By T.D. 82-166, published in the Federal Register on September 13, 1982 (47 FR 40163), the period of time for which the Huntsville port of entry was established on an experimental basis was extended for an additional year; until July 30, 1983. This 1-year extension was granted in order to make a full and fair assessment as to whether Huntsville could meet the criteria for establishing and staffing a port of entry.

Customs has recently completed its review of the status of the workload through the temporary Customs port of Huntsville, Alabama. As a result of this review, Customs has concluded that the workload for fiscal year 1983 will be sufficient to meet the established criteria. Because it has met the established criteria and all of the facilities are adequate, Huntsville is being designated as a permanent port of entry.

GEOGRAPHICAL DESCRIPTION

The geographical boundaries of the Huntsville, Alabama, port of entry include all the territory within the counties of Limestone, Madison, Morgan, and Marshall, all in the State of Alabama.

AUTHORITY

Customs ports of entry are established under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2) and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR, 1949–1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 101-5 (47 FR 2449).

LIST OF SUBJECTS IN 19 CFR PART 101

Customs duties and inspection, imports, organization.

AMENDMENT TO THE REGULATIONS

PART 101—GENERAL PROVISIONS

To reflect the establishment of a permanent Customs port of entry at Huntsville, Alabama, the list of Customs regions, districts, and ports of entry in section 101.3(b), Customs Regulations (19 CFR 101.3(b)), is amended by removing "T.D. 80-176" and inserting, in its place "T.D. 83-196" following "Huntsville, Ala., including the territory described in" under the column headed "Ports of Entry" in the Mobile, Alabama, Customs district.

EXECUTIVE ORDER 12291

Because this amendment relates to the organization of the Customs Service, pursuant to section 1(a)(3) of E.O. 12291, it is not subject to that E.O.

REGULATORY FLEXIBILITY ACT

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this amendment. Customs routinely establishes, expands, and consolidates Customs ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the country. Although this change may have a limited effect upon some small entities in the Huntsville, Alabama, area, the establishment of Customs ports of entry in other locations has not had a significant economic impact on a substantial number of small entities to the extent contemplated by the Regulatory Flexibility Act. Furthermore, Huntsville has been operating as a port of entry since 1980. Accordingly, it is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the amendment will not have a significant economic impact on a substantial number of small entities.

DRAFTING INFORMATION

The principal author of this document was James S. Demb, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: August 22, 1983.

JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, September 20, 1983 (48 FR 42806)]

(T.D. 83-197)

Bonds

Approval and discontinuance of consolidated aircraft bonds (air carrier blanket bonds), Customs Form 7605.

The following consolidated aircraft bonds have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: September 15, 1983.

Name of principal and surety	Date term commences	Date of approval	Filed with district director/area director/amount
Southwest Airlines, 2832 Shore Crest Drive, Dallas, Texas; Amerian Casualty Co. of Reading, Pennsylvania	Aug. 31, 1983	Sept. 1, 1983	New York Seaport $100,000.00

GEORGE C. STEUART
(For Marilyn G. Morrison, Director,
Carrier, Drawback and Bonds Division.)

(T.D. 83-198)

Bonds

Approval and discontinuance of Carrier's Bonds, Customs Form 3587

Bonds of carriers for the transportation fo bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: September 23, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Aloha Freight Forwarders, Inc., P.O. Box 4594, Downey, CA; motor carrier; Liberty Mutual Ins. Co.	Aug. 9, 1983	Sept. 1, 1983	Los Angeles, CA $50,000
Ashland Pipeline Co., c/o Philbin, Cazalas & Co., 624 Gravier Street, New Orleans, LA; pipeline carrier; Insurance Co. of North America. D 09/07/83	July 27, 1981	July 27, 1981	New Orleans, LA $120,000
Bradley Air Services Ltd and First Air registered trademark of Bradley Air Services Ltd; Carp Airport, Carp, Ontario, Canada; air carrier; Fireman's Fund Ins. Co. (PB 07/31/82) D 08/01/83 [1]	July 31, 1983	Aug. 3, 1983	Buffalo, N.Y. $25,000
Cast North America Ltd., 4150 Ste Catherine West, Montreal, P.Q., Canada; motor carrier; Travelers Indemnity Co. D 11/09/83	Oct. 25, 1981	May 10, 1982	Ogdensburg, N.Y. $50,000
Commercial Lovelace Motor Freight, Inc. 3400 Refugee Road, Columbus, Ohio; motor carrier; the Aetna Casualty & Surety Co. (PB 07/11/77) D 09/07/83 [2]	Sept. 6, 1983	Sept. 7, 1983	Cleveland, Ohio $50,000
Cook Motor Lines, Inc., 1016 Triplett Blvd., P.O. Box 370, Akron, Ohio; motor carrier; The Buckeye Union Ins. Co.	June 21, 1983	Sept 13, 1983	Buffalo, N.Y. $40,000
Dairyland Transport, Inc., P.O. Box 1116, Wisconsin Rapids, WI; motor carrier; Employers Ins. of Wausau.	June 13, 1983	Sept. 12, 1983	St. Louis, MO $50,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Direct Transportation System, Ltd; Two Tippett Road; Downsview, Ontario, Canada; motor carrier; Royal Ins. Co. of America. (PB 07/21/76) D 09/06/83 [3]	Aug. 17, 1983	Sept. 6, 1983	Seattle, WA $25,000
Dist-Trans Multi-Services, Inc., d.b.a. Tahwheelalen Express, Inc., P.O. Box 7191, Charlotte, N.C.; motor carrier; American Casualty Co. of Reading, PA. D 09/12/83	June 3, 1981	June 16, 1981	Wilmington, N.C. $25,000
E & P Truck Co., Inc., P.O. Box 2065, Corpus Christi, TX; motor carrier; Inc. Co. of North America. D 09/15/83	May 26, 1964	May 27, 1964	Galveston, TX $10,000
First Air—*See*—Registered Trademark of Bradley Air Services, Ltd.			
Florida Rock & Tank Lines, Inc., P.O. Box 4667, Jacksonville, FL; motor carrier; Firemen's Ins. Co.	July 13, 1983	Sept. 14, 1983	Tampa, FL $25,000
Four Winds Van Lines, Inc. 4275 Campus Point Court, San Diego, CA; motor carrier; The American Ins. Co. (PB 12/15/82) D 08/31/83 [4]	July 22, 1983	Aug. 31, 1983	Baltimore, MD $50,000
High Sierra Express, Inc., 100 Giroux Street, POB 7040; Reno, Nevada; motor carrier; Firemen's Fund Ins. Co.	Apr. 4, 1983	Aug. 9, 1983	San Francisco, CA $25,000
J-Gem Transportation, P.O. Box 1227, Downey, CA; motor carrier; Firemen's Fund Ins. Co.	Sept. 8, 1983	Sept. 15, 1983	Los Angeles, CA $50,000
Motor Cargo Inc., 845 West Center Street, North Salt Lake, UT; motor carrier; Commercial Union Ins. (PB 03/26/76) D 08/08/83 [5]	July 9, 1983	Aug. 8, 1983	Los Angeles, CA $50,000
Ranger Nationwide, Inc., P.O. Box 19060, Jacksonville, FL; motor carrier; American Casualty Company of Reading, PA.	Sept. 2, 1983	Sept. 12, 1983	Tampa, FL $25,000
Seaboard Cost Line Railroad Co., and Louisville & Nashville Railroad Co., joint lessees Carolina, Clinchfield, & Ohio Railway Carolina, Clinchfield & Ohio Railway of S.C., & Clinchfield Northern Railway of Kentucky, operating under the name of Clinchfield Railroad Co.; Erwin, TN; rail carrier; Safeco Inc., Co. D 09/08/83	Aug. 24, 1981	Aug. 24, 1981	New Orleans, LA $50,000
Su Mac Vacuum Service, Inc., Box 512, La Pryor, TX; motor carrier; Western Surety Co.	Sept. 7, 1983	Aug. 12, 1983	Laredo, TX $25,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Tiger InterModal, Inc., 1888 Century Park East, Los Angeles, CA; motor carrier; The Aetna Casualty & Surety Co. (PB 077/09/81) D 07/08/83 [6]	June 8, 1983	July 9, 1983	Los Angeles, CA $50,000
Trans-Border Customs Services Inc., 76 Main Street, Champlain, N.Y.; motor carrier; Old Republic Ins. Co.	Aug. 24, 1983	Sept. 13, 1983	Buffalo, N.Y. $25,000
Whitfield Tank Lines, Inc., P.O. Box 7676, Phoenix, AZ; motor carrier; Northwestern National Ins. Co.	Feb. 1, 1983	Sept. 1, 1983	Nogales, AZ $25,000

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[1] Principal is Bradley Air Services, Ltd. Surety is Insurance Company of North America.

[2] Surety is the Ohio Casualty Insurance Company.

[3] Principal is Millar and Brown Ltd. Surety is Royal Globe Insurance Company.

[4] Surety is American Druggist's Insurance Company.

[5] Surety is TransAmerica Insurance Company.

[6] Surety is St. Paul Fire and Marine Insurance Company.

EDWARD B. GABLE, Jr.,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-199)

Foreign Currencies

Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
August 1-5, 1983	$0.111857
Chile peso:	
August 1-4, 1983	.012579
August 5, 1983	.012523
Colombia peso:	
August 1-4, 1983	.012508
August 5, 1983	.012439
Greece drachma:	
August 1, 1983	.011772
August 2, 1983	.011786

August 3, 1983	.011751
August 4, 1983	.011675
August 5, 1983	.011455
Indonesia rupiah:	
August 1-4, 1983	.001018
August 5, 1983	.001016
Israel shekel:	
August 1, 1983	.019410
August 2, 1983	.019298
August 3-5, 1983	.019186
Peru sol:	
August 1-4, 1983	.000577
August 5, 1983	.000572
South Korea won:	
August 1, 1983	.001277
August 2-4, 1983	.001275
August 5, 1983	.001274

(LIQ-03-01 S:C:I)

Dated: August 5, 1983.

Angela DeGaetano,
Chief,
Customs Information Exchange.

(T.D. 83-200)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
August 8-12, 1983	$0.111857
Chile peso:	
August 8-11, 1983	.012523
August 12, 1983	.012500
Colombia peso:	
August 8-11, 1983	.012439

August 12, 1983	.012396
Greece drachma:	
August 8, 1983	.011351
August 9, 1983	.011357
August 10, 1983	.011242
August 11, 1983	.011136
August 12, 1983	.011117
Indonesia rupiah:	
August 8-11, 1983	.001016
August 12, 1983	.001014
Israel shekel:	
August 8, 1983	.019186
August 9, 1983	.018727
August 10, 1983	.017470
August 11, 1983	.017431
August 12, 1983	.017379
Peru sol:	
August 8-9, 1983	.000572
August 10-12, 1983	.000536
South Korea won:	
August 8, 1983	.001272
August 9-11, 1983	.001271
August 12, 1983	.001269

(LIQ-03-01 S:C:I)

Dated: August 12, 1983.

ANGELA DEGAETANO,
*Chief,
Customs Information Exchange.*

(T.D. 83-201)

oreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 22(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified uying rates for the dates and foreign currencies shown below. The ates of exchange, based on these buying rates, are published for e information and use of Customs officers and others concerned ursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, ubpart C).

Argentina peso:	
August 15–19, 1983	$0.111857
Chile peso:	
August 15–19, 1983	.012500
Colombia peso:	
August 15–18, 1983	.012396
August 19, 1983	.012327
Greece drachma:	
August 15, 1983	.011217
August 16, 1983	.011130
August 17–18, 1983	.011167
August 19, 1983	.011086
Indonesia rupiah:	
August 15–18, 1983	.001014
August 19, 1983	.001016
Israel shekel:	
August 15–16, 1983	.017361
August 17–19, 1983	.017343
Peru sol:	
August 15–18, 1983	.000536
August 19, 1983	.000520
South Korea won:	
August 15–19, 1983	.001269

(LIQ-03-01 S:C:I)

Dated: August 15, 1983.

Angela DeGaetano,
Chief,
Customs Information Exchange.

(T.D. 83-202)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372 (c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
August 22-26, 1983	$0.111857
Chile peso:	
August 22-26, 1983	.012500
Colombia peso:	
August 22-26, 1983	.012327
Greece drachma:	
August 22, 1983	.011050
August 23, 1983	.011086
August 24, 1983	.010995
August 25, 1983	.011001
August 26, 1983	.011001
Indonesia rupiah:	
August 22-26, 1983	.001016
Israel shekel:	
August 22-26, 1983	.017343
Peru sol:	
August 22-26, 1983	.000520
South Korea won:	
August 22-26, 1983	.001269

(LIQ-03-01 S:C:I)

Dated: August 26, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-203)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 22(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified uying rates for the dates and foreign currencies shown below. The ates of exchange, based on these buying rates, are published for ne information and use of Customs officers and others concerned ursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, ubpart C).

Argentina peso:	
August 29-31, 1983	$0.111857
Chile peso:	
August 29-31, 1983	.012346

Colombia peso:	
August 29–31, 1983	.012273
Greece drachma:	
August 29–30, 1983	.010823
August 31, 1983	.010770
Indonesia rupee:	
August 29–31, 1983	.001016
Israel shekel:	
August 29–31, 1983	.017343
Peru sol:	
August 29–31, 1983	.000512
South Korea won:	
August 29, 1983	.001260
August 30, 1983	.001266
August 31, 1983	.001265

(LIQ-03-01 S:C:I:)

Dated: August 31, 1983

ANGELA DEGAETANO,
Chief.
Customs Information Exchange.

(T.D. 83-204)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-161 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Austria schilling:	
August 5, 1983	$0.053043
Belgium franc:	
August 1, 1983	.018660
August 5, 1983	.018598
Brazil cruzeiro:	
August 1–3, 1983	.001634
August 4–5, 1983	.001597

Denmark krone:	
August 1, 1983	.103761
August 5, 1983	.103584
France franc:	
August 1, 1983	.124146
August 5, 1983	.123801
Germany mark:	
August 1, 1983	.373274
August 5, 1983	.372856
Ireland pound:	
August 5, 1983	1.1765
Italy lira:	
August 5, 1983	.000628
Netherland guilder:	
August 5, 1983	.333333
Portugal escuda:	
August 5, 1983	.008104
Venezeula bolivar:	
August 1-4, 1983	.067568
August 5, 1983	.057143

(LIQ-03-01 S:C:I)

Dated: August 5, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-205)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-161 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Austria schilling:	
August 8, 1983	$0.052736

August 9, 1983	.052896
August 10, 1983	.052219
August 11, 1983	.052043
August 12, 1983	.052233
Belgium franc:	
August 8, 1983	.018525
August 9, 1983	.018563
August 10, 1983	.018342
August 11, 1983	.018288
August 12, 1983	.018332
Brazil cruzeiro:	
August 8-10, 1983	.001597
August 11-12, 1983	.001560
Denmark krone:	
August 8, 1983	.103082
August 9, 1983	.103386
August 10, 1983	.101989
August 11, 1983	.101626
August 12, 1983	.101989
France franc:	
August 8, 1983	.123259
August 9, 1983	.123564
August 10, 1983	.121981
August 11, 1983	.121551
August 12, 1983	.122100
Germany mark:	
August 8, 1983	.370975
August 9, 1983	.371816
August 10, 1983	.366999
August 11, 1983	.365657
August 12, 1983	.367107
Ireland pound:	
August 8, 1983	1.1720
August 9, 1983	1.1745
August 10, 1983	1.1595
August 11, 1983	1.1550
August 12, 1983	1.1590
Italy lira:	
August 8, 1983	.000626
August 9, 1983	.000627

August 10, 1983	.000621
August 11-12, 1983	.000618
Netherlands guilder:	
August 8, 1983	.331950
August 9, 1983	.332668
August 10, 1983	.328192
August 11, 1983	.327118
August 12, 1983	.328138
Portugal escudo:	
August 8, 1983	.008097
August 10, 1983	.008068
August 11, 1983	.008016
August 12, 1983	.008029
Spain peseta:	
August 8, 1983	.006525
August 9, 1983	.006479
August 10, 1983	.006510
Sri Lanka rupee:	
August 12, 1983	.041220
Venezuela bolivar:	
August 8-11, 1983	.057143
August 12, 1983	.061728

(LIQ-03-01 S:C:I)

Dated: August 12, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-206)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-161 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Austria schilling:	
August 15, 1983	$0.052390
Belgium franc:	
August 15, 1983	.018409
Brazil cruzeiro:	
August 15–17, 1983	.001560
August 18–19, 1983	.001522
Denmark krone:	
August 15, 1983	.102276
France franc:	
August 15, 1983	.122654
Germany mark:	
August 15, 1983	.368868
Ireland pound:	
August 15, 1983	1.1640
Italy lira:	
August 15, 1983	.000622
Netherlands guilder:	
August 15, 1983	.329598
Portugal escudo:	
August 15, 1983	.008065
Spain peseta:	
August 15, 1983	.006510
Sri Lanka rupee:	
August 15–18, 1983	.041220
August 19, 1983	.041203
Venezuela bolivar:	
August 15–18, 1983	.061728
August 19, 1983	.068027

(LIQ-03-01 S:C:I)

Dated: August 19, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchang

(T.D. 83-207)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-161 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Belgium franc:	
August 26, 1983	$0.018657
Brazil cruzeiro:	
August 22-25, 1983	.001522
August 26, 1983	.001490
Italy lira:	
August 26, 1983	.000628
Portugal escudo:	
August 26, 1983	.008097
Sri Lanka rupee:	
August 22-25, 1983	.041203
August 26, 1983	.041051
Venezuela bolivar:	
August 22-23, 1983	.068027
August 24-26, 1983	.071429

(LIQ-03-01 S:C:I)

Dated: August 26, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-208)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to Section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-161 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Austria schilling:	
August 29, 1983	$0.053149
August 30, 1983	.052889
August 31, 1983	.052632
Belgium franc:	
August 29, 1983	.018570
August 30, 1983	.018491
August 31, 1983	.018440
Brazil cruzeiro:	
August 29-31, 1983	.001490
Denmark krona:	
August 29, 1983	.103493
August 30, 1983	.103263
August 31, 1983	.102965
France franc:	
August 29, 1983	.124023
August 30, 1983	.123594
August 31, 1983	.123229
Germany mark:	
August 29, 1983	.373134
August 30, 1983	.372024
August 31, 1983	.370782
Hong Kong dollar:	
August 30, 1983	.132626
August 31, 1983	.132538
Ireland pound:	
August 29, 1983	$1.1738
August 30, 1983	1.1700
August 31, 1983	1.1655
Italy lira:	
August 29, 1983	.000625
August 30, 1983	.000623

August 31, 1983	.000621
Netherlands guilder:	
August 29, 1983	.383333
August 30, 1983	.332502
August 31, 1983	.331236
Portugal escudo:	
August 29, 1983	.008097
August 30, 1983	.008052
August 31, 1983	.008006
Sri Lanka rupee:	
August 29–31, 1983	.041051
Venezuela bolivar:	
August 29–31, 1983	.066667

(LIQ-03-01 S:C:I)

Dated: August 31, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

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19 CFR Parts 101, 103

(T.D. 83-209)

Customs Service Field Organization

GENCY: U.S. Customs Service, Department of the Treasury.

CTION: Final rule.

UMMARY: This document amends the Customs Regulations to re-
lect the current Customs Service field organization. A complete
nd up-to-date listing of the regional structure with the districts
nd ports of entry within each district is being provided for the in-
ormation of all interested persons. The document will have no
ffect on service provided by Customs. It reflects changes that were
nade by previous documents, and also reflects the transfer of five
orthwestern Florida ports from the Mobile District in the South
Central Region to the Tampa District in the Southeast Region.

FFECTIVE DATE: October 1, 1983.

OR FURTHER INFORMATION CONTACT: Jean Sammon, Man-
gement Analysis and Systems Division, U.S. Customs Service,
301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-
384).

UPPLEMENTARY INFORMATION:

BACKGROUND

The Customs Service, an agency under the Department of the Treasury, has its headquarters in Washington, D.C., and is headed by a Commissioner of Customs. The field organization presently consists of seven geographical regions further divided into districts, with ports of entry within each district. These organizational elements are headed by regional commissioners, district directors (or area directors in the case of the New York Region), and port directors. The seven regions and the headquarters city and state of each are as follows:

Northeast Region—Boston, Massachusetts
New York Region—New York, New York
Southeast Region—Miami, Florida
South Central Region—New Orleans, Louisiana
Southwest Region—Houston, Texas
Pacific Region—Los Angeles, California
North Central Region—Chicago, Illinois

Since the establishment of the existing regional structure in 1965, several Customs studies and a General Accounting Office audit have indicated that the number of regions should be reduced. In concert with these studies, Customs and the Treasury Department determined that reducing the field structure from the nine regions which existed since 1965 to seven regions would achieve an effective balance between the need to economize through reduced staffing and the implementation of a regional structure that wil ensure effective operations, administrative support, and manageable spans of control.

Accordingly, by Department of the Treasury Order number 165-24, dated June 18, 1982, which was published in the Federal Register on June 25, 1982, as T.D. 82-118 (47 FR 27655), effective September 30, 1982, the Customs regional management structure wa reorganized from nine to seven regions. The Boston and Baltimor Regions were combined into a consolidated Northeast Region t handle all northeast seaport activities excluding New York. Ne York remained as a separate region to permit management t devote exclusive attention to an area of the United States tha leads Customs in nearly all workload categories. Further, this ha ensured nationwide uniformity in the processing of merchandis through the Customs National Import Specialists and the Custom Information Exchange, both located in New York.

The Los Angeles and San Francisco Regions were combined int a consolidated Pacific Region that handles all significant west coa commercial and enforcement activity.

In addition to the changes made by reducing the regional fiel structure, by T.D. 83-125, published in the Federal Register o June 6, 1983 (48 FR 25180), the Norfolk, Virginia, and Washingto D.C., Districts became part of the Southeast Region; the Nogale Arizona, District became part of the Southwest Region; and th

Great Falls, Montana, District became part of the North Central Region. Also, the boundaries of the Great Falls, Montana, District were redefined to include the States of Utah, formerly part of the San Francisco, California, District, and Colorado, formerly part of the El Paso, Texas, District.

This document also reflects the transfer of five northwestern Florida ports (Apalachicola, Carrabelle, Panama City, Pensacola, and Port St. Joe) from the Mobile District in the South Central Region to the Tampa District in the Southeast Region. This change is consistent with Customs policy of aligning Customs districts with state lines as much as possible.

Accordingly, to reflect these changes it is necessary to amend the list of Customs regions, districts, and ports of entry set forth in section 101.3(b), Customs Regulations (19 CFR 101.3(b)).

Changes to the Customs field organization are made under the authority vested in the President by section 1 of the Act of August 1, 1914, 39 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR, 1949–1953 Comp., Ch. II). The Secretary of the Treasury, by Treasury Department Order No. 101-5 (47 FR 2449), has delegated certain authority over the Customs Service to the Assistant Secretary (Enforcement and Operations). Because this authority includes making changes to the Customs field organization, section 101.3(a), Customs Regulations (19 CFR 101.3(a)), must be amended by substituting "Assistant Secretary (Enforcement and Operations)" for "Under Secretary of the Treasury".

The list in section 103.1, Customs Regulations (19 CFR 103.1), of public reading rooms or areas at Customs Headquarters and in each region where material is required to be made available under 5 U.S.C. 552(a)(2) and Part 103, Customs Regulations (19 CFR Part 103), also is being amended by this document to reflect the current field structure.

NOTICE, PUBLIC PROCEDURE, AND DELAYED EFFECTIVE DATE UNNECESSARY

Because these amendments are rules of agency organization, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure are unnecessary. Because the amendments update the Customs Regulations to reflect Customs current field organization, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

EXECUTIVE ORDER 12291

Because this rule relates to the organization of the Customs Service it is not a regulation or rule subject to Executive Order 12291, pursuant to section 1(a)(3) of that Executive Order.

REGULATORY FLEXIBILITY ACT

The amendments are not subject to the provisions of Pub. L. 96-354, the Regulatory Flexibility Act (5 U.S.C. 601-612), because publication of a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), or any other law.

DRAFTING INFORMATION

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

LIST OF SUBJECTS IN 19 CFR

Part 101

Customs duties and inspection, Imports, Organization and functions (Government agencies).

Part 103

Customs duties and inspection, Imports, Information.

AMENDMENTS TO THE REGULATIONS

To reflect the change, Parts 101 and 103, Customs Regulations (19 CFR Parts 101, 103), are amended as set forth below.

ALFRED R. DE ANGELUS ,
Acting Commissioner of Customs.

Approved: September 21, 1983.
JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, October 6, 1983 (48 FR 45538)]

PART 101—GENERAL PROVISIONS

1. Section 101.3(a) is amended by removing the words "Under Secretary of the Treasury" and inserting, in their place, the words "Assistant Secretary (Enforcement & Operations)."

2. The list of Customs regions, districts, and ports of entry, set forth in section 101.3(b) is revised to read as follows:

101.3 Customs regions, districts, and ports.

(b) *Customs regions, districts, and ports of entry listed.* * * *

Regions			Districts	
No.	Headquarters	Name and headquarters	Area	Ports of entry
	Northeast Region; Boston, Mass.	Portland, Maine.	The States of Maine and New Hampshire except the county of Coos.	Portland, Maine, including territory described in E.O. 9297, Feb. 1, 1943: 8 FR 1479. Bangor, Maine, including Brewer, Maine (E.O. 9297, Feb. 1, 1943; 8 FR 1479). Bar Harbor, Maine, including Mount Desert island. The city of Ellsworth, and the townships of Hancock, Sullivan, Sorrento, Gouldsboro, and Winter Harbor and Trenton; (E.O. 4572, Jan. 27, 1927; T.D. 78-130). Bath, Maine, including Booth Bay and Wiscasset (E.O. 4356, Dec. 15, 1925). Belfast, Maine, including Searsport (E.O. 6754, June 28, 1934). Bridgewater, Maine. (E.O. 8079, Apr. 4, 1939; 4 FR 1475). Calais, Maine, including townships of Calais, Robbinston,and Baring (E.O. 6284, Sept. 13, 1933). Eastport, Maine, including Lubec and Cutler (E.O. 4296, Aug. 26, 1925). Fort Fairfield, Maine. Fort Kent, Maine. Houlton, Maine (E.O. 4156, Feb. 14, 1925). Jackman, Maine, including the townships Jackman, Sandy Bay, Bald Mountain, Holeb, Attean, Lowelltown, Dennistown, and Moose River (T.D. 54683). Jonesport, Maine, including the towns (townships) of Beals, Jonesboro, Roque Bluffs, and Machiasport (E.O. 4296, Aug. 26, 1925; E.O. 8695, Feb. 25, 1941). Limestone, Maine. Madawaska, Maine. Portsmouth, N.H., including Kittery, Maine. Rockland, Maine. Van Buren, Maine Vanceboro, Maine.

Regions			Districts	
No.	Headquarters	Name and headquarters	Area	Ports of entry
		St. Albans, Vt.	The State of Vermont and the county of Coos, N.H.	St. Albans, Vt., including township of St. Albans (E.O. 3925, Nov. 13, 1923; E.O. 7632, June 15, 1937; 2 FR 1042 T.D. 77-165). Beecher Falls, Vt. Burlington, Vt., including the town of South Burlington (T.D. 54677). Derby Line, Vt. Highgate Springs/Alburg, Vt., including territory described in T.D. 77-165. Norton, Vt., including territory described in T.D. 73-249. Richford, Vt.
		Boston, Mass.	The State of Massachusetts.	Boston, including territory and waters adjacent thereto described in T.D. 56493. Fall River, including territory described in T.D. 54476. Gloucester. Lawrence, including territory described in T-D 71-12 (E.O. 5444, Sept. 16, 1930); (E.O. 10088, Dec. 3, 1949; 14 FR 7287). New Bedford. Plymouth. Salem, including Beverly, Marblehead, Lynn, and Peabody (E.O. 9207, July 29, 1942). Springfield (T.D. 69-189). Worcester.
		Providence, R.I.	The State of Rhode Island.	Providence, including territory described in T.D. 67-3. Newport.
		Bridgeport, Conn.	The State of Connecticut.	Bridgeport, including territory described in T.D. 68-224. Hartford, including territory described in T.D. 68-224. New Haven, including territory described in T.D. 68-224. New London, including territory described in T.D. 68-224.
		Ogdensburg, N.Y.	The counties of Clinton, Essex, Franklin, St. Lawrence, Jefferson, and Lewis in the State of New York.	Ogdensburg. Alexandria Bay, including territory described in E.O. 10042, Mar. 10, 1949; 14 FR 1155. Cape Vincent. Champlain-Rouses Point, including territory described in T.D. 67-68. Chateaugay. Clayton. Fort Covington. Massena (T.D. 54834). Trout River (T.D. 56074).

Regions		Districts	
Headquarters	Name and headquarters	Area	Ports of entry
	Buffalo, N.Y.	The counties of Oswego, Oneida, Onondaga, Cayuga, Seneca, Wayne, Broome, Tompkins, Chenango, Madison, Cortland, Hamilton, Schuyler, Chemung, Heridmer, Monroe, Ontario, Livingston, Yates, Steuben, Orleans, Genesee, Wyoming, Allegany, Erie, Niagara, Cattaraugus, Chautauqua, and Tioga in the State of New York.	Buffalo-Niagara Falls, N.Y. (T.D. 56512). Oswego. Rochester. Sodus Point. Syracuse. Utica.
	Philadelphia, Pa.	The State of Pennsylvania except the county of Erie, the State of Delaware, and that part of the State of New Jersey not included in the district of New York City.	Philadelphia, Pa., including Camden and Gloucester City, N.J., and territory described in E.O. 7840, Mar. 15, 1938; 3 FR 687; T.D. 53738 and T.D. 54303. Chester, Pa. (E.O. 7706, Sept. 11, 1937; 2 FR 1848). Harrisburg, Pa. (T.D. 71-233). Pittsburgh, Pa., including territory described in T.D. 67-197. Wilkes-Barre/Scranton, Pa., including the territory described in T.D. 75-64. Wilmington, Del., including territory described in T.D. 54202 (E.O. 4496, Aug. 12, 1926).
	Baltimore, Md.	The State of Maryland except the counties of Montgomery and Prince Georges.	Baltimore, including territory described in T.D. 68-123. Annapolis. Cambridge, (E.O. 3888, Aug. 13, 1923). Crisfield, Md.

Regions			Districts	
No.	Headquarters	Name and headquarters	Area	Ports of entry
	New York Region, New York City, N.Y.	New York City, N.Y.	The counties of Sussex, Morris, Passaic, Hudson, Bergen, Essex, Union, Middlesex, and Monmouth in the State of New Jersey and that part of the State of New York not expressly included in the districts of Buffalo and Ogdensburg. [TD 81-160] (The district is divided into three areas, namely, Kennedy Airport Area, Newark Area, and New York Seaport Area, the limits of which are described in T.D. 71-19 and T.D. 76-59).	New York, N.Y., including territory described in E.O. 4205, Apr. 15, 1925 (T.D. 53876). Albany, N.Y. Perth Amboy, N.J.
	North Central Region, Chicago, Ill.	Chicago, Ill....	The State of Illinois lying north of lat. 39° N.; that part of the State of Indiana north of lat. 41° N. and the States of Iowa and Nebraska.	Chicago, Ill., including territory described in T.D. 71-121. Des Moines, Iowa, including territory described in T.D. 75-104. Omaha, Nebr., including territory described in T.D. 73-228. Peoria, Ill., including territory described in T.D. 72-130.

Regions			Districts	
No	Headquarters	Name and headquarters	Area	Ports of entry
		Cleveland, Ohio.	The States of Ohio, Kentucky, that part of the State of Indiana lying south of lat. 41° N.; and the county of Erie in the State of Pennsylvania.	Cleveland, Ohio, including territory described in T.D. 77-232. Akron, Ohio. E.O. 4597, Feb. 25, 1927, including territory described in T.D. 77-732. Ashtabula/Conneaut, Ohio, including territory described in T.D. 77-232. Cincinnati, Ohio, including territory described in T.D. 75-144. Columbus, Ohio T.D. 82-9. Dayton, Ohio, including territory described in T.D. 76-77. Erie, Pa., including territory described in T.D. 77-5 Evansville, Ind. Indianapolis, Ind. Lawrenceburg, Ind., including Greendale (E.O. 6634, Mar. 7, 1934). Louisville, Ky., including territory described in T.D. 77-232. Owensboro, Ky., including territory described in T.D. 80-22. Sandusky, Ohio (T.D. 81-72). Toledo, Ohio, including territory described in T.D. 71-157.
		St. Louis, Mo.	The States of Missouri and Kansas, and that part of the State of Illinois lying south of lat. 39° N.	St. Louis, Mo., including territory described in T.D. 69-224. Kansas City, Mo., including Kansas City, Kans., and North Kansas City, Mo. (E.O. 8528, Aug. 27, 1940) including territory described in T.D. 67-56. Springfield, Mo., including all of the territory within Greene and Christian Counties, Missouri (T.D. 82-30). St. Joseph, Mo. Wichita, Kans., including territory described in T.D. 74-93.

Regions		Districts		
No.	Headquarters	Name and headquarters	Area	Ports of entry
		Duluth, Minn.	The counties of Koochiching, Itaschi, St. Louis, Carlton, Pine, Lake, Cook, Clay, Aitkin, Norman, Wilkin, Ottertail, Becker, Mahnomen, Clearwater, Hubbard, Wadena, Cass, and Crow Wing in the State of Minnesota and the counties of Douglas, Bayfield, Ashland, and Iron in the State of Wisconsin, and the island of Isle Royale in the State of Michigan.	Duluth, Minn., and Superior, Wis., including territory described in T.D. 55904. Ashland, Wis Grand Portage, Minn. (T.D. 56073). International Falls-Ranier, Minn., including territory described in T.D. 66-246.
		Milwaukee, Wis.	The State of Wisconsin, except the counties of Douglas, Bayfield, Ashland, and Iron and the county of Menominee in the State of Michigan.	Milwaukee, Wis., including territory described in T.D. 72-105. Green Bay, Wis., including the townships of Ashwaubenon, Allouez, Preble, and Howard, and the city of De Pere (T.D. 54597). Manitowoc, Wis. Marinette, Wis., including Menominee, Mich. Racine, Wis., including the city of Kenosha and the townships of Mount Pleasant and Somers (T.D. 54884.) Sheboygan, Wis.
		Minneapolis, Minn.	The State of Minnesota except those counties in the Pembina, North Dakota, and Duluth, Minn. districts.	Minneapolis-St. Paul, including territory described in T.D. 69-15.

Regions		Districts		
No.	Headquarters	Name and headquarters	Area	Ports of entry
		Pembina, N. Dak.	The States of North and South Dakota and the counties of Kittson, Roseau, Lake of the Woods, Marshall, Beltrami, Polk, Red Lake, Pennington in the State of Minnesota.	Pembina, N. Dak. Ambrose, N. Dak. (E.O. 5835, 13, 1932). Antier, N. Dak. Baudette, Minn. (E.O. 4422, Apr. 19, 1926). Carbury, N. Dak. (E.O. 5137, June 17, 1929). Dunseith, N. Dak. (E.O. 7632, June 15, 1937; 2 FR 1042). Fortuna, N. Dak. (E.O. 7632, June 15, 1937; 2 FR 1042). Hannah, N. Dak. Hansboro, N. Dak. Maida, N. Dak. (E.O. 7632, June 15, 1937; 2 FR 1042). Neche, N. Dak. Noonan, N. Dak. (E.O. 7632, June 15, 1937; 2 FR 1042). Northgate, N. Dak. Noyes, Minn. (E.O. 5835, Apr. 13, 1932). Pinecreek, Minn. (E.O. 7632, June 15, 1937; 2 FR 1042). Portal, N. Dak. Roseau, Minn. (E.O. 7632, June 15, 1937; 2 FR 1042). Sarles, N. Dak. Sherwood, N. Dak. St. John, N. Dak. (E.O. 5835, Apr. 13, 1932). Walhalla, N. Dak. Warroad, Minn. Westhope, N. Dak. (E.O. 4236, June 1, 1925).
		Detroit, Mich.	The State of Michigan except the Island of Isle Royale and the county of Menominee, Mich.	Detroit, including territory described in E.O. 9073, Feb. 25, 1942; 7 FR 1588; and T.D. 53738. Battle Creek (T.D. 76-233). Grand Rapids (T.D. 77-4). Muskegon (E.O. 8315, Dec. 22, 1939), including territory described in T.D. 56230. Port Huron, including territory described in T.D. 53576. Saginaw-Bay City-Flint (T.D. 82-9). Sault Ste. Marie (T.D. 79-74).

Regions			Districts	
No.	Headquarters	Name and headquarters	Area	Ports of entry
		Great Falls, Mont.	The States of Montana, Idaho, Wyoming, Colorado and Utah.	Great Falls, Mont. Butte Mont., including territory d scribed in T.D. 73-121. Del Bonita, Mont., (E.O. 7947, Aug 1938; 3 FR 1965). Mail: Cut Ban Mont. Denver, Colo. (T.D. 80-180). Eastport, Idaho. Morgan, Mont. (E.O. 7632, June 1937; 2 FR 1042). Mail: Lorin Mont. Opheim, Mont. (E.O. 7632, June 1937; 2 FR 1042). Plegan, Mont. (E.O. 7632, June 1937; 2 FR 1042). Mail: Babb, Mo Porthill, Idaho. Raymond, Mont. (E.O. 7632, June 1937; 2 FR 1042). Roosville, Mont. (E.O. 7632, June 1937; 2 FR 1042). Mail: Eure Mont. Salt Lake City, Utah (T.D. 69- Scobey, Mont. (E.O. 7632, June 1937; 2 FR 1042). Sweetgrass, Mont. Turner, Mont. (E.O. 7632, June 1937; 2 FR 1042). Whitetail, Mont. (E.O. 7632, June 1937; 2 FR 1042). Whiteash, Mont. (E.O. 7632, June 1937; 2 FR 1042).
	Southeast Region, Miami, Fla.	Miami, Fla	The counties of Hendry, Indian River, St. Lucie, Martin, Okeechobee, Palm Beach, Collier, Broward, Monroe, and Dade in the State of Florida.	Miami, including territory descr in T.D. 53514. Key West, including territory scribed in T.D. 53994. Port Everglades (E.O. 5770, Dec. 1931), including territory descr in T.D. 53514, Mail: Fort Lau dale, Fla. West Palm Beach (E.O. 4324, Oct 1925), including territory descr in T.D. 53514.

Regions			Districts	
No.	Headquarters	Name and headquarters	Area	Ports of entry
		Tampa, Fla	The north shore of the St. Marys River and the City of St. Marys, Ga., and all the State of Florida except the counties of Hendry, Indian River, St. Lucie, Martin, Okeechobee, Palm Beach, Collier, Broward, Monroe, Dade.	Tampa, Fla., including territory described in T.D. 68-91. Apalachicola, Fla. Boca Grande, Fla. Carrabelle, Fla. (E.O. 7508, December 11, 1936; 1 FR 2149). Fernandina Beach, Fla., including St. Marys, Ga. (T.D. 53033). Jacksonville, Fla. (T.D. 69-45). Orlando, Fla. (T.D. 76-306). Panama City, Fla. (E.O. 3919, November 1, 1923). Pensacola, Fla., Port Canaveral, Fla., including territory described in T.D. 66-212. Port St. Joe, Fla. (E.O. 7818, February 17, 1938; 3 FR 503). St. Petersburg, Fla., (E.O. 7928, July 14, 1938; 3 FR 1749), including territory described in T.D. 53994.
		San Juan, P.R.	The Commonwealth of Puerto Rico.	San Juan, including territory described in T.D. 54017. Aguadilla. Fajardo. Guanica. Humacao, including territory described in T.D. 70-157. Jobos (E.O. 9162, May 13, 1942). Mayaguez (T.D. 22305). Ponce, including territory described in T.D. 54017.
		Charlotte Amalie, St. Thomas, V.I.	All of the Virgin Islands of the United States.	Charlotte Amalie, St. Thomas. Christiansted, St. Croix. Coral Bay, St. John. Frederiksted, St. Croix. Cruz Bay, St. John.

Regions			Districts	
No.	Headquarters	Name and headquarters	Area	Ports of entry
		Washington, D.C.	The District of Columbia, the counties of Montgomery and Prince Georges in the State of Maryland, the counties of Loudoun, Fairfax, and Arlington, and the city of Alexandria in the State of Virginia, including any independent cities and towns within such boundaries of such counties.	Washington, D.C., including territory described in T.D. 68-67. Alexandria, Va. (T.D. 68-67).
		Norfolk, Va.	The State of Virginia, except the counties of Loudoun, Fairfax, and Arlington, and the city of Alexandria, including any independent cities and towns within the boundaries of such counties, and the State of West Virginia.	Norfolk and Newport News, Va., including the waters and shores of Hampton Roads. Cape Charles City, Va. Charleston, W. Va., including territory described in T.D. 73-221. Reedville, Va. Richmond-Petersburg, Va., including territory described in T.D. 68-179
		Wilmington, N.C.	The State of North Carolina.	Wilmington, including townships of Northwest, Wilmington, and Cape Fear (E.O. 7761, Dec. 3, 1937; 2 FR 2679, and territory described in E.O. 10042, Mar. 10, 1949; 14 FR 1155). Beaufort-Morehead City (T.D. 556 Charlotte (T.D. 56079). Durham (E.O. 4876, May 3, 1928) including territory described in E.O. 9433, Apr. 6, 1944; 9 FR 3761 and T.D. 82-9. Reidsville (E.O. 5159, July 18, 192 including territory described in E.O. 9433, Apr. 6, 1944; 9 FR 376 Winston-Salem (E.O. 2366, Apr. 2 1916).

Regions		Districts		
No.	Headquarters	Name and headquarters	Area	Ports of entry
		Charleston, S.C.	The State of South Carolina.	Charleston, including territory described in T.D. 76-142. Columbia, including all of the territory in Richland and Lexington Counties (T.D. 82-239). Georgetown. Greenville-Spartanburg, including territory described in T.D. 70-148.
		Savannah, Ga.	The State of Georgia, except the north shore of the St. Marys River and the city of St. Marys, Ga.	Savannah, including territory described in E.O. 8367, Mar. 5, 1940; 5 FR 985. Atlanta, including territory described in T.D. 55548, Brunswick.
	South Central Region, New Orleans, La.	Mobile, Ala.	The State of Alabama and that part of the State of Mississippi lying south of lat. 31° N.	Mobile, Ala. including territory described in T.D. 76-259. Birmingham, Ala. Gulfport, Miss. Huntsville, Ala. including territory described in T.D. 83- Pascagoula, Miss., including territory described in T.D. 58333.
		New Orleans, La.	The States of Tennessee, Arkansas, and Louisiana, except the parishes of Cameron and Calcasieu and that part of the State of Mississippi lying north of lat. 31° N.	New Orleans, La., including territory described in T.D. 74-206. Baton Rouge, La. (E.O. 5993, Jan. 13, 1933), including territory described in T.D. 53514 and T.D. 54381. Chattanooga, Tenn. Gramercy, La., including territory described in T.D. 82-93. Greenville, Miss., including territory described in T.D. 73-325. Knoxville, Tenn., including territory described in T.D. 75-128. Little Rock-North Little Rock, Ark., including territory described in T.D. 70-146. Memphis, Tenn. Morgan City, La., including territory described in T.D. 66-266. Nashville, Tenn. Vicksburg, Miss., including territory described in T.D. 72-123.

Regions		Districts		
No.	Headquarters	Name and headquarters	Area	Ports of entry
	Southwest Region, Houston, Tex.	Houston—Galveston, Texas.	That part of the State of Texas lying south of lat. 32° N. and that part of the State of Texas lying east of long. 97° W. except the territory included in the Port Arthur district.	Houston-Galveston: the territory lying within the corporate limits of both Houston and Galveston, and the remaining territory in Harris and Galveston Counties (T.D. 81-160, 82-15), Corpus Christi (E.O. 8288, including territory described in T.D. 78-130), Freeport (E.O. 7632), Port Lavaca-Point Comfort (T.D. 56115).
		Laredo, Tex.	That part of the State of Texas lying west of long. 97° W. longitude and east of the Pecos River except that territory included in the Houston and Galveston districts.	Laredo. Brownsville, including territory described in T.D. 79-254. Del Rio. Eagle Pass. Hidalgo (E.O. 3609, Jan. 9, 1922). Progeso, including territory described in T.D. 76-339. Rio Grande City. Roma (E.O. 4830, Mar. 14, 1928). San Antonio.
		El Paso, Tex.	That part of the State of Texas lying west of the Pecos River and the State of New Mexico.	El Paso, Tex. (T.D. 54407), including territory described in T.D. 78-221. Albuquerque, N. Mex., including territory described in T.D. 74-304. Columbus, N. Mex. Fabens, Tex. (E.O. 4869, May 1, 1928). Presidio, Tex. (E.O. 2702, Sept. 7, 1917).
		Dallas/Fort Worth.	The State of Oklahoma, and those parts of the State of Texas lying north of lat. 32° N., and within the area north of lat. 30° N., west of 97° W. long. and east of 99° W. long.	Dallas/Fort Worth, Tex. (T.D. 73-297) (T.D. 79-232) (T.D. 81-170). Amarillo, Tex. (T.D. 75-129). Austin, Tex. (T.D. 81-170). Lubbuck, Tex. (T.D. 76-79). Oklahoma City, Okla., including territory described in T.D. 66-132. Tulsa, Okla. (T.D. 69-142).

Regions		Districts		
No.	Headquarters	Name and headquarters	Area	Ports of entry
		Port Arthur, Tex.	That part of the State of Texas from Sabine Pass north along the State line to the north boundary line of Shelby County; west to the Neches River, down the western shore of said river to the north boundary of Jefferson County; westerly along said boundary to the east boundary of Liberty County; south along the east boundary of Liberty County to the Gulf of Mexico, encompassing that portion of Chambers County between the Liberty County border extended to the Gulf of Mexico and the Chambers/Jefferson County border; also the parishes of Cameron and Calcasieu in the State of Louisiana.	Beaumont, Orange, Port Arthur, Sabine, Tex., including territory described in T.D. 74-231, T.D. 81-160. Lake Charles, La. (E.O. 5475, Nov. 3, 1930), including territory described in T.D. 54137.
		Nogales, Ariz.	The State of Arizona	Nogales, including territory described in T.D. 77—285. Douglas, including territory described in E.O. 9382, Sept. 25, 1943; 8 FR 13083. Lukeville (E.O. 10088, Dec. 3, 1949; 14 FR 7287). Naco. Phoenix (T.D. 71-103). San Luis (E.O. 5322, Apr. 9, 1930). Sasabe (E.O. 5608, Apr. 22, 1931).

Regions		Districts		
No.	Headquarters	Name and headquarters	Area	Ports of entry
	Pacific Region, Los Angeles, Calif.	Los Angeles, Calif.	That part of the State of California lying south of the northern boundaries of the counties of San Luis Obispo, Kern, and San Bernardino, except the counties of San Diego and Imperial and that part of the State of Nevada comprising Clark County.	Los Angeles-Long Beach, (cluding territory describe 78-130. Las Vegas, Nev., the terr scribed in T.D. 79-74. I Luis, Calif.
		San Francisco, Calif.	That part of the State of California lying north of the northern boundaries of the counties of San Luis Obispo, Kern, and San Bernardino, and the State of Nevada, except Clark County.	San Francisco-Oakland, Cali ing Benicia, Martinez, F Sacramento, San Jose, a ton (T.D. 82-9). Eureka, Calif. Fresno, Calif., including ter scribed in T.D. 74-18. Reno, Nev., including ter scribed in T.D. 73-56.
		San Diego, Calif.	The counties of San Diego and Imperial in the State of California.	San Diego (T.D. 54741), incl ritory described in T.D. 6 Andrade (E.O. 4780, Dec Calexico. Tecate (E.O. 4780, Dec. 13, 1
		Honolulu, Hawaii.	The State of Hawaii.	Honolulu (T.D. 53514). Hilo. Kahului. Nawiliwili-Port Allen (E.O. 25, 1926), including ter scribed in T.D. 56424.

Regions			Districts	
No	Headquarters	Name and headquarters	Area	Ports of entry
		Portland, Oreg.	The State of Oregon and that part of the State of Washington which embraces the waters of the Columbia River and the north bank of the said river west of long. 119° west.	Columbia River, Oreg. (Portland, Astoria, Longview (including territory described in T.D. 73-338).) Coos Bay, Oreg. (E.O. 4094, Oct. 28, 1924; E.O. 5193, Sept. 14, 1929; E.O. 5445, Sept. 16, 1930; E.O. 9533, Mar. 23, 1945; 10 FR 3173). Newport, Oreg.
		Seattle, Wash.	The State of Washington except that part which embraces the waters of the Columbia River and the north bank of the said river west of long. 119° west.	Puget Sound (Seattle, Anacortes, Bellingham, Everett, Friday Harbor, Neah Bay, Olympia, Port Angeles, Port Towsend, Tacoma), including territory described in T.D. 83-146. Aberdeen, including territory described in T.D. 79-169. Blaine (E.O. 5835, Apr. 13, 1932). Boundary (T.D. 67-65). Danville. Ferry. Frontier (T.D. 67-65). Laurier. Lynden (E.O. 7632, June 15, 1937; 2 FR 1042). Metaline Falls (E.O. 7632, June 15, 1937; 2 FR 1042). Nighthawk. Oroville (E.O. 5206, Oct. 11, 1929). Point Roberts, including territory described in T.D. 78-272. Spokane. Sumas.
		Anchorage, Alaska.	The State of Alaska.	Anchorage (T.D. 55295, T.D. 68-50). Alcan (T.D. 71-210). Dalton Cache (T.D. 79-74). Fairbanks (E.O. 8064, Mar. 9, 1939; 4 FR 1191). Juneau. Ketchikan, including territory described in T.D. 74-100. Sitka, including territory described in T.D. 55609. Slagway. Valdez, including territory described in T.D. 79-201. Wrangell, including territory described in T.D. 56420.

PART 103—AVAILABILITY OF INFORMATION

The list of public reading rooms set forth in section 103.1 is revised to read as follows:

103.1 Public reading rooms.

United States Customs Service (Headquarters), 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Northeast Region—Boston, 100 Summer Street, Suite 1819, Boston, Massachusetts 02110.

New York Region—New York, 6 World Trade Center, New York, New York 10048.

North Central Region—Chicago, Room 1501, 55 East Monroe Street, Chicago, Illinois 60603.

Southeast Region—Miami, 99 S.E. 5th Street, Miami, Florida 33131.

South Central Region—New Orleans, Canal-LaSalle Building, Rm. 302, 423 Canal St., New Orleans, Louisiana 70130.

Southwest Region—Houston, 5850 San Felipe, Houston, Texas 77057.

Pacific Region—Los Angeles, New Federal Building, 300 N. Los Angeles Street, Los Angeles, California 90012.

(T.D. 83-210)

Bonds

Approval and discontinuance of consolidated aircraft bonds (air carrier blanket bonds), Customs Form 7605

The following consolidated aircraft bonds have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: September 29, 1983.

Name of principal and surety	Date term commences	Date of approval	Filed with district director/area director/amount
Air Pacific Ltd., 1600 Kapiolani Blvd., Suite 923, Honolulu, Hawaii; American Casualty Co. of Reading, PA	Sept. 7, 1983	Sept. 9, 1983	New York Seaport, N.Y. $100,000.00
World Airways, Inc., Oakland International Airport, Oakland, CA; United Pacific Ins., Co. (PB 07/21/82) D 10/07/83.[1]	Sept. 15, 1983	Oct. 8, 1983	San Francisco, CA $100,000.00

Footnotes at end of table.

Name of principal and surety	Date term commences	Date of approval	Filed with district director/area director/amount
The foregoing principals have been designated as carriers of bonded merchandise.			

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[1] Surety is Fireman's Fund Ins. Co., Principal is World Airways.

Edward B. Gable, Jr.,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-211)

Bonds

Approval and discontinuance of bonds on Customs Form 7587 for the control of Instruments of International Traffic of a kind specified in section 10.41a of the Customs Regulations

Bonds on Customs Form 7587 for the control of instruments of international traffic of a kind specified in section 10.41a of the Customs Regulations have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: September 30, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Braunkohle Transport, USA, 5029 Domain Place, Alexandria, VA; Peerless Ins. Co.	Aug. 18, 1983	Aug. 19, 1983	Norfolk, VA $10,000
Centerchem, Inc., 475 Park Avenue, New York, NY; Old Republic Ins. Co.	Sept. 12, 1983	Sept. 13, 1983	Wilmington, NC $10,000
Central Marine Lines, Inc., 2333 Tchoupitoulas Street, New Orleans, LA; Old Republic Ins. Co.	Sept. 2, 1983	Sept. 20, 1983	New Orleans, LA $10,000
Char Ching Shipping (USA) Ltd., 925 Harbor Plaza Drive, #223, Long Beach, CA; Washington Int'l Ins. Co.	Aug. 1, 1983	Aug. 9, 1983	Los Angeles, CA $50,000
Combined Maritime Agencies Inc., 39 Broadway, New York, NY; American Motorists Ins. Co. D 08/04/83	Feb. 23, 1981	Feb. 25, 1981	New York, NY Seaport $10,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Dalton Steamship Corporation of Texas, 1520 Texas Ave., Houston, TX; Fidelity & Deposit Co. of Maryland. D 08/29/83	Feb. 3, 1975	Feb. 18, 1975	Houston, TX $10,000
Hapag-Lloyd (America), Inc., (A Delaware Corp.) and its division, Hapag-Lloyd Agencies and U.S. Navigation; 1 Edgewater Plaza, Staten Island, NY; American Casualty Co. of Reading, PA. PB 01/01/83) D 09/12/83.[1]	Aug. 10, 1983	Sept. 12, 1983	New York, NY Seaport $10,000
Japan Line (New York) Services Ltd., One World Trade Center, New York, NY; Peerless Ins. Co. D 09/01/83	Mar. 2, 1973	Mar. 5, 1973	New York, NY Seaport $10,000
Lorentzen Shipping Agency, Inc., dba Condord Nopal Agencies, (Florida Corp.), 1040 Port Blvd., Miami, FL; Fidelity & Deposit Co. of Maryland.	Sept. 8, 1983	Sept. 16, 1983	New York, NY Seaport $10,000
Mantecados Payco, Inc., #113 Chardon Avenue, Hato Rey, PR; Seaboard Surety Co.	Aug. 26, 1983	Aug. 26, 1983	San Juan, PR $10,000
McKay-Markstrin Distributing Company, P.O. Box 23663, Oakland, CA; Washington Int'l Ins., Co. (PB 10/15/82) D 10/31/83.[2]	Oct. 14, 1983	Oct. 14, 1983	San Francisco, CA $10,000
Seaboard Marine Ltd., 2150 N.W. 70 Avenue, Miami, FL; The American Ins. Co.	Aug. 10, 1983	Aug. 10, 1983	Miami, FL $10,000
Toyomenka (America) Inc., 1 World Trade Center, New York, NY; American Casualty Co. of Reading, PA. (PB 04/02/75) D 07/06/83.[3]	July 6, 1983	Aug. 12, 1983	New York, NY Seaport $10,000
United States Navigation Co., Inc., a New York Corp., 17 Battery Place, NY; Continental Casualty Co., an Illinois Corp. D 09/12/83	Apr. 20, 1960	Apr. 20, 1960	New York, NY Seaport $10,000

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[1] Principal is Hapag-Lloyd (America) Inc., a Delaware Corp.
[2] Principal is East Bay Beverage Co.
[3] Surety is St. Paul Fire & Marine Ins. Co.

EDWARD B. GABLE, Jr.,
Director,
Carriers, Drawback and Bonds Division.

19 CFR Parts 7, 10, 22, 113, 145, 158

(T.D. 83-212)

Customs Regulations Revision Relating to Drawback: Specialized and General Provisions

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final revision.

SUMMARY: As a part of the general revisions of the Customs Regulations, the Customs Service is revising its regulations which govern drawback. Drawback is a refund or remission, in whole or in part of a customs duty, internal-revenue tax, or fee lawfully assessed or collected because of a particular use made of the merchandise on which the duty, tax, or fee was assessed or collected. The rationale for drawback has always been to encourage American commerce or manufacturing, or both. This revision sets forth the general provisions applicable to all drawback claims and specialized provisions applicable to specific types of drawback claims. This revision also follows a new format, and includes changes or additions in language to clarify the current provisions. Some of the substantive changes are new and some are based upon interpretative rulings. Furthermore, based upon the comments received from the public in response to the notice of proposed revision and Customs initiative, other changes have been made in the document as proposed, especially with regard to "same condition" drawback and the notice of exportation procedures.

EFFECTIVE DATE: December 12, 1983.

FOR FURTHER INFORMATION CONTACT: Legal aspects: George Steuart, Carriers, Drawback and Bonds Division (202-566-5856); Operational aspects: Betty L. Colburn, Duty Assessment Division (202-566-5307); Audit aspects: Maury Johnson, Regulatory Audit Division (202-566-2812); U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Drawback is a refund or remission, in whole or in part of a customs duty, internal-revenue tax, or fee lawfully assessed or collected because of a particular use made of the merchandise on which the duty, or tax, or fee was assessed or collected.

The rationale for drawback has always been to encourage American commerce or manufacturing, or both. It permits the American manufacturer to compete in foreign markets without the handicap of including in his costs, and consequently in his sales price, the duty paid on imported merchandise.

Two examples of drawback follow:

1. "A" imports Australian grease wool, and produces from it wool top which is sold in the United States. At a later date, "A" uses domestic grease wool of the same kind and quality to produce wool top and the wool top is exported. "A" can claim and receive drawback on the duty he paid on the Australian grease wool.

2. "B" imports semiconductors which he uses in manufacturing television sets. If the television sets are exported, "B" may claim and receive drawback on the duty paid on the semiconductors.

This revision is part of the general revision of the Customs Regulations and amends Chapter 1, title 19, Code of Federal Regulations (19 CFR Chapter I), by removing present Part 22 and adding a new Part 191.

Part 191 sets forth the general provisions applicable to all drawback claims and specialized provisions applicable to specific types of drawback claims. Part 191 follows a new format, and contains changes or additions in language to clarify the current provisions. Substantive changes to Part 22 have been made in Part 191. Some of the changes are new and some are based upon interpretative rulings. Revised Part 191 is divided into sixteen subparts.

Significant changes adopted in the revision include:

1. Defining the primary terms used throughout the revision;

2. Removing the application procedure which precedes the filing of the drawback proposal and approval of a specific drawback contract;

3. Providing a sample drawback proposal to a prospective drawback claimant upon request;

4. Providing for the use of a general drawback contract prepared by Customs Headquarters and published in the Customs Bulletin for use by any manufacturer or producer desiring drawback who can comply with the conditions of the contract;

5. Retaining the certified notice of exportation procedure in 2 circumstances used to establish exportation of articles for drawback purposes;

6. Discussing materials used for construction and equipment of vessels and aircraft built for foreign account and ownership;

7. Discussing same condition drawback;

8. Discussing distilled spirits, wines, or beer which is unmerchantable or does not conform to sample or specification; and

9. Removing regulations relating to bags and meat wrappers, sugar and syrups, linseed oil, crude petroleum and petroleum derivatives, piece goods and fur skins and skin articles.

NOTICE OF PROPOSED REVISION

On August 26, 1982, Customs published a document in the Federal Register (47 FR 37563), providing the public with 90 days to submit written comments on the proposed revision of the drawback regulations. Commenters had until November 24, 1982, to submit their comments. Customs received several requests to extend the period of time for the submission of comments claiming that because of the complexity of the issues involved, additional time was needed to prepare and submit thorough comments. Customs believed that the requests had merit and, therefore, extended the period of time for the submission of written comments for approximately 60 days to January 21, 1983. Customs received over 150 comments on the proposed revision. In general, the commenters considered the proposed revision to be a vast improvement over Part 22 and offered suggestions for further consideration. Two major areas of concern in the proposed revision related to same condition drawback and the elimination of a certified notice of exportation procedure. Based upon the comments received and Customs initiative, numerous changes have been made relating to same condition drawback which we believe are responsive to the concerns of the commenters. Customs also has determined to retain the certified notice of exportation procedure in the following two specified circumstances:

1. Certification of notice of exportation at the time of exportation; and
2. Certification of notice of exportation by mail.

DISCUSSION OF COMMENTS

SUBPART A

Comment:

A statement should be added to Subpart A that the new regulations will not abrogate drawback contracts in existence at the time the final rule becomes effective.

Analysis:

It is Customs position that a drawback contract in existence at the time the final rule becomes effective will be honored by Customs and will remain in effect for its duration. Drawback claimants operating under an existing contract need not file a new proposal. Customs believes, however, there is no need to place such a statement in the regulations.

Comment:

The definition of "drawback" in section 191.2(a) should be amended by either removing the references to "duty or tax" or be expanded to include the term "fee."

Analysis:

Because same condition drawback includes the term "fee", Customs has expanded the definition to include this term.

Comment:

The statutory phrase "less 1 per centum" is not included in the definition of "drawback."

Analysis:

By providing in the definition "in whole or in part," Customs has included all types and percentages of drawback returns. For example, for merchandise exported from a Customs warehouse, the return of drawback is 100 percent of the duties paid.

Comment:

There should be a reference in the drawback definiton to the non-payment of drawback on products and by-products of wheat.

Analysis:

Although such a reference is provided in 19 U.S.C. 1313(a), Customs believes that this provision is not of sufficient general interest to be included in section 191.2(a).

Comment:

Section 191.2(a) provides for drawback because of a "particular use made of the merchandise." Therefore, there should be a separate definition of "same condition drawback" (which is based upon imported merchandise not being "used" within the United States); or in the alternative, the drawback definition also should define the "use" to which merchandise must be put to obtain drawback upon exportation.

Analysis:

Customs considers the exportation of merchandise to be a "use" within the definition of drawback; and therefore, this definiton also includes same condition drawback. Furthermore, same condition drawback is discussed in section 191.4(a)(9).

Comment:

The term "designated merchandise" should be removed from section 191.2(b) and the term "imported merchandise" should be added in its place. A delineation of the terms "designated" and "identified" should be made.

Analysis:

Customs considers the term "designated merchandise" to be a technical term of art and should be retained. "Identification" is being used here in a common, non-technical meaning. To clarify this point, the definition in section 191.2(b) has been changed to read:

> (b) *Designated Merchandise.* Designated merchandise means imported duty-paid merchandise or drawback products identified (either physically or by accounting records), by a drawback claimant as the basis for a drawback claim under 19 U.S.C. 1313(b).

Comment:

The Phrase "manufactured * * * under a drawback contract" in section 191.2(g) should be clarified so that the claimant would know

t drawback can be claimed on goods exported prior to approval
he contract.

lysis:

ustoms believes this addition is unnecessary. Section 22.4(n)
ich provided that no drawback would be allowed on articles ex-
ted before the date of Customs receipt of an application for
wback) was removed by T.D. 79-65 (44 FR 11061). Furthermore,
ion 191.61 provides that drawback claims may be filed and com-
ted within three years after the date of exportation of the arti-
on which drawback is claimed.

ment:

he last sentence of section 191.2(g) is confusing and therefore,
uld provide a clarifying reference to drawback products used in
ndary manufacture. Another suggestion involved using the
ases "dual status" or "dual characteristics" in the last sentence.

lysis:

ustoms has reviewed this sentence and concluded that it is
r and that any additional language would be surplusage.

ment:

ection 191.2(h) should permit as an option the submission of
puter-generated Customs Forms 7543, 7573, 7575 A&B, and
7 A&B, plus any other forms that may be appropriate. All
ns should be "8½ x 11" and require only one signature. Cus-
s Forms 7583, listed as a current form, was discontinued. It is
gested that Customs Forms CF 7585 is intended, since it is listed
roposed section 191.82(e)(2).

lysis:

ustoms believes that references in the regulations to computer-
erated forms and their size are inappropriate. Computer-gener-
l forms may be used provided they follow the same format, con-
all of the information required, state the form number and
e and contain the necessary certification(s) and signature(s).
toms notes, however, that a reduction from "8½ x 14" to "8½ x
is planned for all forms. If only one signature is needed, only
t signature will be required on the new form. CF 7583 was abol-
d. CF 7585 will be indicated in its place. This error also appears
er section 191.163(e); Therefore, the "7583" is changed to "7585"
oth sections.

ment:

he language of section 191.2(m) defining "same kind and qual-
should be clarified, and examples should be added.

Analysis:

Customs believes that the language of this definition is clear and disagrees with the suggestion to add examples because they may prove to be misleading and provide little assistance.

Comment:

The definition of "verification" in section 191.2(o) is so broad that it places no limitation upon the authority of a Customs auditor in conducting a verification. Therefore, there would be unnecessary requests for information by the auditor. Verification should not entail all records and the examination should apply only to those records involved in the drawback program.

There were several suggestions to modify the language of the definition including limiting the examination of records to import, manufacture, and export documents of adding the words * * * "and maintained in the ordinary course of the business." It is claimed that the auditor does not have an absolute right to demand the financial records of a drawback claimant, based upon the holding in C.S.D. 82-38, dated October 5, 1981 (published in Vol. 16 No 9, Cus. Bul. p. 16, March 3, 1982), which held, * * * "Absent a cogent reason, an auditor does not have an absolute right to demand the financial records of a drawback claimant who has made available records which *prima facie* show importation, manufacture, and exportation for purposes of the drawback law."

Analysis:

It is Customs position that the definition as written is correct The definition is not as broad as the commenters suggest. Examination concerns only those transactions involving drawback. However, the scope of the audit, which includes the examination of financial records, is reserved by Customs, not the claimant. The reservation by Customs of the right to include in its examination all financial records, must be read in light CSD 82-38. Although Custom will examine first the importation, manufacturing, and exportatio records, it reserves absolutely the right to demand all financi records for examination.

Customs notes that it does not prescribe the specific recor system for a claimant to maintain. This allows claimants to u their own accounting systems in support of claims and preclud the use of singular purpose systems. Additionally, in the perfor ance of the examination of records, Customs generally can acco modate central or decentralized control of records by a claima

Comment:

Clarification for the term "group of claims" was requested.

Analysis:

In the performance of a verification, Customs may select claim or a multiple number of claims under one contract. Un

ne circumstances, claims under all contracts may be selected.
erefore, this phrase is used.

mment:

The language of section 191.10(c) should be substituted for sec-
on 191.2(o) claiming this would appropriately reduce the author-
of the auditor.

nalysis:

Section 191.10(c) represents a repeat of the authority for verifica-
on contained in section 22.43(c) and is considered properly placed.
he definition for verification is new and its purpose is to provide
dditional explanation for drawback claimants based upon previous
nteractions between the public and Customs. Therefore, the sug-
estion is not adopted.

omment:

The definition of "abstract of manufacturing records" in section
91.2(p) is unnecessary in that Customs Forms 7575 and 7577 are
the abstracts of a manufacturer's records."

Analysis:

Customs disagrees because claimants should know they may pro-
vide an abstract of their own which does not involve using Customs
forms. Mere reference to only those forms as abstracts may lead
claimants to believe they are the only means of submitting an "ab-
stract" of manufacturing records.

Comment:

A definition should be added to section 191.2 to discuss the term
"first-in-first-out (FIFO)." Other terms such as "use," "used in,"
and "appearing in" also should be defined in this section.

Analysis:

Customs has determined not to adopt these suggestions. Al-
though FIFO was given special attention in the proposed rule, this
revision has been changed to reflect that any acceptable accounting
principle may be used to show use in manufacture, shipping, etc. If
Customs were to describe one method, we would have to describe
all methods. Also, FIFO is not an accounting method unique to
drawback.

Concerning the suggestions that the other terms be added, Cus-
toms believes it is better to define those terms in its ruling opin-
ions on a case-by-case basis.

Comment:

A reference should be added to section 191.3 relating to sugar
import fees.

Analysis:

Customs disagrees. The present section is not all-inclusive but in-
cludes a general listing of duties subject to drawback.

Comment:

A new subsection should be added to section 191.4(a)(2) to include the holding of a Customs Service Decision allowing claimants to treat a commercial lot of imported duty-paid merchandise as domestic merchandise for purposes of substitution drawback.

Analysis:

Customs disagrees because there is no provision in the revision which parallels section 22.5(a)(5), (which required records to be kept to indicate that domestic merchandise was used in manufacture). Therefore, it is unnecessary to change section 191.4(a)(2).

Comment:

There should be a reference in section 191.4(a)(2) to substitution of same condition merchandise.

Analysis:

Customs cannot adopt this suggestion because substitution in this context requires legislation.

Comment:

There should be a reference in section 191.4(a)(2) to substitution of merchandise in foreign trade zones.

Analysis:

Customs notes that substitution in a foreign trade zone is permitted only under the substitution drawback statute, not under the foreign trade zone statute. Manufacturing under substitution drawback can apply to a zone because a zone is considered in the United States. However, it is impractical to describe all interfaces between drawback and other laws in the regulations.

Comment:

Drawback under 19 U.S.C. 1313(c), as discussed in section 191.4(a)(3), should be limited to those claimants who cannot claim drawback under any other drawback procedure.

Analysis:

Customs does not have the statutory authority to write such a regulation.

Comment:

Because of the difficulty faced in what is meant by "domestic tax-paid" alcohol in 19 U.S.C. 1313(d), it is suggested that section 191.4(a)(4) be changed to include "distilled spirits."

Analysis:

"Domestic alcohol" in 19 U.S.C. 1313(d) does not include anything other than tax-paid alcohol as set forth in 27 CFR 5.22(a) and 19.597(a)(1), nor does it include beverage alcohols referred to as distilled spirits in 26 U.S.C. 5171. When the Internal Revenue Code was amended by Pub. L. 85-859, the Customs statute was not amended. Customs recognizes the problem. At this time, however, we cannot adopt the suggestion.

Comment:

Sections 191.4(a)(5) and (6) should be deleted from the regulations and the law as they are obsolete provisions.

Analysis:

Customs agrees that drawback on imported salt for curing fish, and the exportation of packed or smoked meats cured in the United States with imported salt are forms of drawback not currently in use. However, we believe that the statutory reference to them should be made in the regulations.

Comment:

Section 191.4(a)(9) can be used to require that imported merchandise exported in the same condition must be exported under Customs supervision.

Analysis:

This is incorrect. In accordance with Pub. L. 96-609, supervision is applicable only to destruction of the imported merchandise and not to exportation.

Comment:

Section 191.4(a)(10) is inaccurate because (1) same condition merchandise should be covered under this section; (2) there is no reference to "articles of domestic manufacture and production"; and (3) there is no reference to "drawback," "direct identification," or "substitution."

Analysis:

Customs notes that when 19 U.S.C. 1313(j) was promulgated, 19 U.S.C. 1309(b) was not amended. Although this later provision covers vessel supplies which are "articles of domestic manufacture or production," a phrase which confers drawback under the manufacturing drawback provisions, section 1309(b) contains no language which would confer drawback under the same condition drawback law. Until such time as 19 U.S.C. 1309(b) is so amended, merchandise placed aboard vessels as supplies cannot be considered as having been exported for purposes of 19 U.S.C. 1313(j). Customs is amending section 191.4(a)(10) by adding a reference to "articles of domestic manufacture and production." However, there is no need to refer to "drawback," "direct identification," or "substitution" as suggested because "articles of domestic manufacture or production" cover manufactured drawback articles.

Comment:

Section 191.4(a)(11) should be changed to include the language "merchandise upon which duties have been paid." Also, merchan-

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dise must be exported or shipped within 3 years after the date of its importation, rather than 5 years as set forth in the proposal.

Analysis:

Although Customs used the term "duty paid" merchandise in section 191.4(a)(11), that section is being amended by removing that term and adding the suggested language because it does more clearly reflect the statutory language. The 5-year period as set forth in the revision is correct. The 3-year period was extended to 5 years by Pub. L. 95-410 (Oct. 3, 1978).

Comment:

There should be a reference to same condition drawback in section 191.4(b).

Analysis:

Customs disagrees because that section is limited to a particular type of drawback, i.e., internal revenue taxes on unmerchantable alcohol beverages.

Comment:

Records should be retained for at least 3 years after "liquidation", rather than 3 years after "payment" of claims as set forth in section 191.5. Records required to be kept by manufacturers or producers also should be kept by agents or customhouse brokers.

Analysis:

Customs considered amending the regulations to use the term "liquidation;" however, that proposal was rejected. Customs believes that because section 191.5 merely states the time frame for the retention of records, it would be inappropriate to expand that section to include other recordkeepers.

Comments:

Proposed section 191.6(a) appears to exclude attorneys from the category of individuals authorized to sign drawback documents. The requirement that an attorney needs a power of attorney is objectionable in light of the Administrative Procedure Act, specifically 5 U.S.C. 555(b) (relating to the right of a person compelled to appear in person before an agency being entitled to be accompanied, represented, and advised by counsel); and with regard to filing protests, conflicts with 19 CFR 174.3(a)(1).

Legal Determination 79-0131, (May 15, 1979), was criticized. The ruling related to whether an attorney in general practice who has been granted a Customs power of attorney, may sign and file forms connected with drawback or any other Customs matter for his client. The ruling held that because the attorney is not considered a "regular employee" of an importer, he cannot transact Customs business on behalf of his client unless he is licensed as a customhouse broker.

A power of attorney should be required only when the signee is t an officer or a person whom the claimant warrants to be an thorized employee of the corporation for which he is signing. ne signature should be required unless additional non-related par- es are involved in the transaction.

nalysis:

It is Customs position that attorneys cannot bind corporations, rtnerships, or sole proprietorships without a power of attorney to so. An attorney, therefore, is required to have power of attorney sign drawback documents. However, the commenter is correct at no power of attorney to file a protest is required of an attor- ey in accordance witn 19 CFR 174.3(a)(1). Upon reconsideration, ustoms is of the opinion that the references to protests in section 91.6(b)(12), as well as the items discussed in sections 191.6(b) (10) nd (11), are not technically drawback documents and, therefore, re being removed from the revision.

Customs believes that the reference to the Administrative Proce- ures Act is misplaced because no one is compelled to appear efore Customs in order to apply for drawback. Customs has decid- d to reconsider Legal Determination 79-0131. Any decision on that uling will be the subject of a separate document.

Customs cannot broaden the scope of who has authority to sign rawback documents without a power of attorney. Corporations nust have on file with Customs a legal document showing that hey agree to be bound in drawback matters by the signature of a articular person. Customs requires two signatures on specified Customs Forms because very often only the second party has ctual knowledge of certain facts needed by Customs.

Comment:

Section 191.7 should be clarified as to with whom a protest is to be filed.

Analysis:

This comment has merit, and this section has been revised to reflect the procedure set forth in Part 174, Customs Regulations.

Comment:

Section 191.8(b) should be modified to indicate that same condition drawback articles need not be exported under Customs supervision. There is no need to have any reference to "use" in this section.

Analysis:

We believe this section, as well as section 191.4(a)(9), previously discussed, is clear as drafted. Customs supervision is applicable only to destruction of the imported merchandise. Customs believes the reference to "use," although not required here, is helpful to the reader.

Comment:

Section 191.8(c) should include language that duties must have been paid on merchandise upon which drawback is sought, and that the limitation for exportation from warehouse should be 3 and not 5 years.

Analysis:

It is understood that duty has been paid when drawback is sought on merchandise for any reason, or, at least, drawback would not be paid unless duty had been paid on the merchandise. The time limit for merchandise to be exported or shipped is now 5 years, as noted above.

Comment:

Section 191.10(b) makes compulsory the verification of information concerning a claimant's factories located in other regions by the use of the word "shall." It is suggested the words "required by" should be changed to "provided by."

Analysis:

This comment has merit. Therefore, the words "required by" are being removed, and the words "provided for in" are being added in its place. The word "shall" is being removed and the word "may" is being added in its place.

Comment:

The regulations do not consider multi-plant operations with centralized control over drawback records at a home office location.

Analysis:

It is Customs position the commenters concerned with their centralization of records should include this information in their contract. Generally, a verification will be limited to that location.

Comment:

In proposed section 191.10(d), the postponement for payment of all the claimant's drawback pending completion of a verification and the issuance of a report by Regulatory Audit may pose severe financial hardships in the event a verification or issuance of a report was delayed. Suggestions were made to establish a maximum period of postponement for liquidations from the initiated date of postponement. The suggested period was from 60–90 days from the date of postponement. Others suggested the postponement should apply only to those claims under the same contract subject to verification.

Analysis:

These comments have merit. The regulation is being revised to provide for postponement of payment on only those claims selected for verification. However, specifying a maximum period of postponement is considered too restrictive. In the event a substantial error is revealed during the verification, Customs may postpone liquidation of all related product line claims, or in its discretion, all claims.

Comment:

The use of the phrase "within a specified time" in proposed section 191.10(e) should be changed to show the claimant has a fixed specific time to amend defective drawback contracts. It is suggested that 90 days is appropriate.

Analysis:

It is Customs opinion that use of a specified time would be restrictive, both to Customs and the claimants. Contract deficiencies must be corrected timely. Required changes to contracts will vary in complexity. These matters are best resolved between the responsible Customs Service official and the claimant. The suggestion is not adopted.

Comment:

The question was raised whether the claimant still has the right to file a protest.

Analysis:

This is correct.

Comment:

Section 191.11(a) should be amended to exempt Government instrumentalities operating with nonappropriated funds from the requirement of obtaining bonds relating to drawback claims.

Analysis:

Customs believes that although these instrumentalities are required to obtain bonds, Customs has determined to waive the surety requirements on accelerated bonds and exporter's summary procedure bonds. This section is being amended accordingly.

Comments:

Section 191.11(c)(2) is limited to drawback being available only to a supplier; however, if the supplier of the merchandise is the manufacturer, producer, etc., he has the right under 191.73(b) to endorse the drawback to anyone he chooses.

Analysis:

This comment has merit and, therefore, section 191.11(c)(2) is being amended by adding "or any of the parties specified in section 191.73(b) of this part" after the word "supplier."

Comment:

The section heading of 191.13 "Guantanamo Bay" is insuffcent to reflect the information contained therein which also refers to payments or nonpayments of drawback on merchandise shipped to insular possessions or trust territories.

Analysis:

The comment has merit and the section heading is being changed to read:

"Guantanamo Bay, insular possessions, trust territories."

SUBPART B

Comment:

Section 191.21(a) should be clarified to distinguish sufficiently between a specific drawback contract and a general drawback contract.

Analysis:

This comment has merit. The first sentence of this section is being revised by adding at the beginning, "Unless operating under a general drawback contract. * * *

Customs desires claimants to use the least complex procedure. General contracts reduce the burden on both Customs and the public. A claimant should not use both a general and a specific drawback contract.

Comment:

Section 191.21(a)(1) may be confusing when read with 191.22(d) in that it may be believed that brokers or issuers of certificates of delivery may be required to file drawback proposals.

Analysis:

Customs disagrees. Section 191.21 makes it clear that only manufacturers and producers of articles need drawback contracts. There is no requirement for a broker to have a drawback contract.

Comment:

Persons keeping complementary records pursuant to section 191.21(a)(1) should be able to sign those records.

Analysis:

Customs agrees. Because complementary records are kept by the person for whose account the products are manufactured or produced when the manufacturer or producer is unable to do so, the following sentence is being added at the end of that section:

> Complementary records may be signed by the complementary recordkeeper in accordance with section 191.6(a) of this part.

Comment:

Language should be added to Subpart B to the effect that claimants need only keep "reasonable records" to show compliance with the law, and that drawback should ensue unless "contrary information" is found in the claimant's records.

Analysis:

Customs disagrees. The claimant's records must show compliance with the requirements of the law and regulations. Customs cannot permit a lessening of this burden. Adoption of the suggestion would place the burden on Customs in those cases where the claimant's records indicate a lack of compliance.

Comment:

Section 191.21(a)(2) should be amended so as not to require subcontractors to submit contracts, general or otherwise.

Analysis:

This section has been amended to clarify that subcontractors may use a general contract which requires a minimum of work on their part.

Comment:

Section 191.21(a)(2) should be clarified to indicate that it is drawback merchandise which must be identified.

Analysis:

Customs disagrees. The terms "material" indicates that it is the merchandise which must be identified, which possibly may not be the drawback merchandise after handling by the subcontractor. This regulation applies only to identification.

Comment:

Section 191.22 should be revised to avoid confusion between recordkeeping requirements for 19 U.S.C. 1313(a) and 19 U.S.C. 1313(b).

Analysis:

Section 191.22(a) indicates that that section concerns direct identification drawback and that substitution drawback recordkeeping requirements are found in section 191.32

Comment:

The following language should be added at the end of section 191.22(a)(4) "* * * unless the claimant has selected to utilize the schedule method in their proposal to Customs."

Analysis:

Customs disagrees. A schedule merely indicates the amount of merchandise used in manufacture during the period. Use of a schedule does not obviate the necessity of filing manufacturing abstracts, which show compliance with the time frames for receipt, use in manufacture, and exportation.

Comment:

In section 191.22(a)(5)(i), the values of each product at the time of separation should be taken into consideration only if they are over a specific percentage, e.g., 5 percent in relation to each other.

Analysis:

Customs cannot adopt this suggestion because the present language provides us with the flexibility needed to determine when a value is *de minimis* with regard to the values of its relative products.

Comment:

The 1-month abstract period specified in section 191.22(a)(5)(ii) is too short and should be for several months. The drawback contract rather than the regulation should provide the abstract period.

Analysis:

Customs does not agree. A 1-month limitation provides a safeguard against a claimant receiving more drawback than entitled. Furthermore, the regulation does provide for approval by Customs of a longer manufacturing abstract period. Also, having a limitation on the abstract period leads to uniformity for liquidators and auditors.

Comment:

The reference to "weighted average" in section 191.22(a)(5)(ii) should be deleted because it does not recognize market fluctuations during the abstract period.

Analysis:

Customs disagrees because it is precisely the market values over a manufacturing period which are used to determine a weighted average for by-products.

Comment:

In 191.22(a)(5)(ii), each manufacturing period should be considered the time of separation, rather than the entire time period covered by the claim, with the weighted average market value assigned for each period.

Analysis:

Customs cannot adopt this suggestion. If a claim is made for goods manufactured over more than one abstract period, then unit relative values based on the entire manufacturing period must be ascertained.

Comment:

The term "designated" in section 191.22(b) is misleading.

Analysis:

Customs agrees and has removed this word.

Comment:

Identification of two or more lots of merchandise used for drawback purposes in section 191.22(c) should not be limited to first-in-first-out (FIFO) accounting principles.

The word "shall" in the first sentence should be changed to "may". The phrase "or any other accounting procedure approved by Customs" should be added at the end of the first sentence to permit use of other accounting procedures.

Analysis:

Customs believes this comment has merit and is so revising this section. Therefore, other accounting procedures such as "low-to-high," "identification," and "blanket identification" may be used.

Comment:

Drawback claimants should not have to account for domestic consumption since in doing so, they may lose drawback.

Analysis:

Customs has held, in effect, that if a claimant is using FIFO or any acceptable accounting method for such commingled goods, the claimant need not account for domestic consumption. Accordingly, there is no need to add this to the regulations.

Comment:

Section 191.22 should apply only to 19 U.S.C. 1313(a) drawback and a separate section should apply to substitution drawback under 19 U.S.C. 1313(b).

Analysis:

Customs believes that the appropriate sections are clear. Section 191.22(a) provides the record requirements for direct identification and other non-substitution manufacturing drawback and refers the reader to section 191.32 for record requirements 19 U.S.C. 1313(b). The last sentence of section 191.22(c) is being deleted (as discussed below). Section 191.31 advises that the procedures set forth in subparts A and B are applicable to 19 U.S.C. 1313(b) except as noted in subpart C.

Comment:

Sections 191.22(b) and (c) should be amended to cover single lot and multiple lot identification.

Analysis:

Customs disagrees because single lots need no further identification.

Comment:

The last sentence of section 191.22(c) is misleading in that it is claimed that FIFO must be used to designate merchandise for drawback under 19 U.S.C. 1313(b).

Analysis:

To clarify this, Customs is removing the last sentence of this section and adding a new section 191.32(e) to read as follows:

e. *Designation*

A manufacturer or producer may designate any merchandise which it has used in manufacturing or production.

Comment:

The first sentence of section 191.25(b)(2) should be revised by removing the language through "Customs Headquarters" and adding in its place "a letter modifying an existing contract." There should be additions to the list of changes covered by the modification which can be approved by the regional commissioner.

Analysis:

Customs disagrees. To change the first sentence would remove from the regulations the types of contracts which can be approved by the regions, which otherwise requires Headquarters approval. Customs believes that there should be no expansion of the list of changes covered by the modification.

Comment:

One commenter asks whether section 191.25(b)(2) allows a regional commissioner to revoke a contract approved by Headquarters.

Analysis:

Section 191.25(b)(2) delineates the instances when approval of specified modifications are submitted to the regions. When they are received by the regions and approved, the region notifies Headquarters and the modified contract becomes effective. If the existing contract was approved at Headquarters, this is no impediment to the region's action. The contract is not revoked by this action.

Comment:

Section 191.25(c) should be amended by adding "without prejudice" at the end of the sentence.

Analysis:

Customs agrees and has added * * * "without prejudice to claims existing thereunder" at the end of the sentence.

Comment:

The phrase * * * "in accordance with section 191.23 of this part" * * * should be removed from the first sentence of section 191.26

Analysis:

Customs disagrees. The cross-reference is used to inform the party renewing the contract which Customs office should be notified of the request.

Comment:

Section 191.26 should provide a time limit to indicate when Customs should be notified of an intent to renew the contract.

Analysis:

Customs believes that a specific time period is unnecessary. Customs will accept a request to renew a contract at any time prior to the expiration of the 15-year period.

Comment:

A question was raised whether only Headquarters can renew a contract approved by Headquarters.

Analysis:

Customs notes that under present guidelines, if Headquarters approves the original contract, then it approves the renewal.

SUBPART C

Comment:

It appears from the language of section 191.32(a)(1) that claimants under 19 U.S.C. 1313(b) can continue to designate the imported merchandise most advantageous to them.

Analysis:

This is correct. It is believed that if a claimant under 19 U.S.C. 1313(b) uses FIFO (or any other approved method) for identifying or proving use of merchandise in manufacture, then that claimant must use that method for designating merchandise for drawback. This is not so. As noted above, we have amended section 191.22(c) and added section 191.32(e), for clarification.

Comment:

Section 191.32(a) should include a reference to rulings holding that merchandise not proved to be imported is considered domestic merchandise.

Analysis:

This is not necessary since there is no reference to the use of domestic merchandise in section 191.32(a).

Comment:

Section 191.32(a)(2) does not sufficiently distinguish between "used" and "appearing in" methods.

Analysis:

This comment has merit. The word "or" is being added to this section immediately before the word "appearing."

Comment:

Because section 191.31 refers to Subparts A and B, the question is raised whether is it necessary to include a paragraph on valuable waste in section 191.32(b) in light of paragraph 191.22(a)(2) on this subject matter.

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Analysis:

Customs believes both sections are necessary. "Valuable waste" is discussed in section 191.22(a)(2) and "valuable waste records" are discussed in section 191.32.

Comment:

The exchange of petroleum provision in section 191.32(c) should be extended to all fungible goods.

Analysis:

Legislation would be necessary to accomplish this.

Comment:

The language in the second sentence of section 191.33 after "separation of the products * * *" should be deleted.

Analysis:

Customs disagrees. That information is needed to prepare claims.

Comment:

The relative values in section 191.33 should be ignored if the difference in value between by-products is small (e.g., 5 percent).

Analysis:

The present language give Customs flexibility in determining when a value is *de mininus* with regard to the values of its relative products. Customs believes that adoption of the suggestion would complicate the administration of the relative value aspects of the law.

Comment:

Objections were raised regarding the one-month time limitation and the use of the term "weighted" in section 191.33.

Analysis:

Customs believes the sections should not be changed for the reasons previously discussed.

Comment:

Section 191.34 should be amended to allow the general agents' drawback contract under 19 U.S.C. 1313(b) extended to claimants using agents under 19 U.S.C. 1313(a).

Analysis:

There is no necessity for an agent's drawback contract under 19 U.S.C. 1313(a). Under 19 U.S.C. 1313(a), because only the imported merchandise is being subjected to manufacture, it would be surplusage for a principal to operate under the general drawback contract of 19 U.S.C. 1313(a) and have his agent obtain an agent's contract. Under 19 U.S.C. 1313(a), the agent need only operate under a general drawback contract.

SUBPART D

Comment:

The language of Subpart D does not sufficiently reflect contract terminology involving offer and acceptance.

Analysis:

This comment has merit. Clarifying changes have been made to sections 191.42 and 191.43.

Comment:

Subpart D should provide a listing of approved general drawback contracts available to the public.

Analysis:

Customs publishes as Treasury Decisions general drawback contracts when they are offered. However, to include a listing of these contracts in the regulations would require continuous amendment of the regulations as new contracts are published. Customs believes this is unnecessary.

Comment:

Section 191.42(b), which provides specified information that must be provided by a manufacturer or producer to Customs under a general drawback contract, should be expanded to include:

(1) Imported merchandise to be used;
(2) Exported product;
(3) Basis of claim; and
(4) Designated merchandise.

Analysis:

Customs disagrees because inclusion of this additional data is not necessary and submission would pose a burden on the claimant.

Comment:

A regional commissioner should acknowledge within 60 days, receipt of a letter of acceptance by the manufacturer or producer of an offer for a general drawback contract in section 191.43.

Analysis:

Acknowledgement by the regional commissioner is a matter of courtesy and ordinarily will be done within a reasonable timeframe. Customs believes a 60 day requirement is unnecessary.

Comment:

The reference in section 191.44 to renewal of a contract by the regional commissioner "upon satisfactory review" should be removed because that phrase is too ambiguous and subjective, and he regional commissioners should not be required to conduct any eview.

Analysis:

Customs agrees. The phrase "Upon satisfactory review" may b confusing and is unnecessary. Therefore, the entire second sentenc is being removed.

SUBPART E

Comment:

Customs should retain the certified notice of exportation procedure. Eliminating this procedure effectively will deny claimant drawback. When the claimant is not the direct exporter, the claimant often is unable to obtain the necessary documentary evidenc of exportation from the exporter. The exporter may refuse to provide the data to the claimant because of business confidentiality o bear the administrative expense of providing supporting documents. The claimant must expend more money to obtain the document required for the uncertified procedure. The proposed revisio is discriminatory in those situations when the claimant is not th direct exporter because proof of exportation may be available onl by means of the certified notice of exportation. Customs refusal t expend time and effort required to certify the notice of exportatio *after* exportation has occurred is understood. However, it is note that only a minimal amount of effort is required to perform th certification when the manifest, shipper's export declarations, an notices of exportation are all submitted properly *at the time* of exportation.

Analysis:

Customs believes these comments have merit and has determined to retain the certified notice of exportation procedure in th following two circumstances:

1. Certification of notice of exportation at the time of exportation, and
2. Certification of notice of exportation by mail.

To accomplish this, the word "Uncertified" is being remove from section 191.51(a) and the section heading of section 191.5 Section 191.52(c) has been rewritten and divided into two paragraphs, (c)(91) and (c)(2). Paragraph (c)(1) permits the certifie notice of exportation procedure and paragraph (c)(2) provides th uncertified notice of exportation procedure.

Comment:

Section 191.52(b)(3) should be revised by removing the wor "gross" and require only "net weight".

Analysis:

Customs disagrees. For regulatory audit purposes, gross weigh needs to be specified.

Comment:

The reference in section 191.52(c) (now 191.52(c)(2) as rewritten), to "or certified copies thereof" should be removed in order to conform to C.S.D. 82-59 (Vol. 16, No. 16, Cus. Bul. p. 33).

Analysis:

Customs disagrees. That ruling merely stated that copies of bills of lading, etc., which indicate that the goods were received by the exporting carrier, would be sufficient to support a notice of exportation. This is the "certification" to which section 191.52(c) refers.

Comment:

A "domestic" bill of lading covering a motor carrier shipment to a Mexican border point should be an acceptable document to support an uncertified notice of exportation. A so-called "domestic" bill of lading to a Mexican or Canadian customer should be deemed acceptable.

Analysis:

Customs disagrees. Intermodal and inland bills of lading are not acceptable as proof of exportation as set forth in C.S.D. 82-59.

Comment:

The numbering provision of section 191.529(d) should be eliminated.

Analysis:

Customs disagrees and believes the numbering is necessary for identification purposes.

Comment:

The reference to same condition drawback in section 191.53(b) should be removed.

Analysis:

Customs disagrees because Subpart E is concerned with methods of proving exportation for manufacturing and same condition drawback.

Comment:

The word "may" in section 191.53(c) should be removed and the word "shall" added in its place.

Analysis:

Customs agrees. The regional commissioners should grant summary procedure when it is concluded that its use would contribute to administrative efficiency.

Comment:

Section 191.53(d) should be deleted because no bond is needed for operation under the exporter's summary when a claimant has obtained a bond to file drawback claims under the accelerated payment procedure.

Analysis:

Both bonds are necessary as they cover different aspects of drawback. Furthermore, many drawback claimants operating under summary procedure do not operate under the accelerated procedure.

Comment:

The reference in section 191.53(e)(1) to "identity and location of the ultimate consignee of the exported articles" should be removed because collection of this data is a burden.

Analysis:

Customs notes that the requirement to submit this data is contained in existing section 22.7(d)(2)(ii) and is still needed.

Comment:

The reference in the second sentence of section 191.53(e)(2) to same condition drawback should be removed because the subject is covered by Subpart N.

Analysis:

Customs disagrees because this section deals with exporter's summary procedure, and we want to make it clear that this procedure can be used with same condition drawback as well as with manufacturing drawback.

Comment:

The reference in section 191.53(e)(3) to a "chronological summary" should be removed because the requirement causes needless, excessive paperwork with no apparent benefit to claimants or Customs.

Analysis:

The chronological order is necessary so that the timeliness of exportation can be determined after a rapid review by the liquidator. Otherwise, it would be easy to overlook the oldest export date.

Comment:

Some of the items on the format in section 191.53(e)(3) are claimed to be unnecessary. It is suggested the phrases "Marks & Nos.", "Schedule B No.," and "Destination" be removed. The submission of all the data should not be mandatory. One commentor suggests rewording or redesigning the chronological summary because of the extensive current use of data processing and the cost of programming.

Analysis:

This comment has some merit. Customs has determined to revise the language of section 191.53(e)(3) to provide that the format shall be acceptable to the regional commissioner and shall contain "substantially the data provided for in the following sample format."

Comment:

The last sentence of section 191.54(c) should be removed because it places a burden on the postmaster.

Analysis:

This suggestion is not adopted because Customs and the claimant want to know where a copy of the notice of exportation will be available if the exporter/claimant loses his copy. Second, the exporter or his agent, to whom the postmaster gives the original notice of exportation and one copy, may not be the drawback claimant.

Comment:

Section 191.54(c) "Certification" should be redesignated as section 191.54(a)(2) and proposed section 191.54(a), "Procedure", should be redesignated as section 191.54(a)(1).

Analysis:

Customs agrees and has so changed the revision.

Comment:

Section 191.55(b) should be amended to conform to the change made to section 191.11(c)(2) relating to other parties for whom drawback is available.

Analysis:

This suggestion is adopted.

Comment:

Section 191.55(b) should permit the applicable parties to use the exporter's summary procedure.

Analysis:

Customs agrees and is adding a reference to section 191.53 at the end of the sentence.

Comment:

Section 191.57, relating to examination of merchandise, should be removed because the language is too broad.

Analysis:

Customs disagrees. It is necessary to inform drawback claimants of Customs right to examine any merchandise to be exported with drawback.

SUBPART F

Comment:

The phrase in section 191.61, "including those issued by one Customs officer to another," should be removed. It was unclear as to what documents are being referred to.

Analysis:

Customs disagrees. The documents refer to the notice of exportation.

Comments:

Section 191.62(a)(1) should be amended to allow claimants to file documents with "any" district director, rather than "the appropriate" district director.

Analysis:

Customs disagrees. Claims should be filed with a district director under the jurisdiction of the regional commissioner where the drawback contract is filed. Each claim will be liquidated at that location unless the claimant requests the regional commissioner who has the contract on file to transfer the contract to another location where claimant indicates the claim is to be liquidated.

Comment:

After "Customs Form 7575" in section 191.62(a), add "-A, if claiming under 19 U.S.C. 1313(a), or Customs Form 7575-B if claiming under 19 U.S.C. 1313(b)."

Analysis:

Customs agrees; this addition would distinguish between and cover (a) and (b) claims.

Comment:

The reference in section 191.62(b)(2), as well as in section 191.52(a), to uncertified Customs Form 7511 should not be required if documentary evidence supports exportation.

Analysis:

Customs disagrees because Customs Form 7511 is a signed representation to Customs that exportation occurred. The evidence of exportation used to support the Customs Form 7511 (e.g., bill of lading), concerns parties other than Customs certifying receipt and exportation. The Customs Form 7511 is a document which can be the basis of criminal action under 18 U.S.C. 1001 and 18 U.S.C. 550.

Comment:

The examples should be removed from section 191.62(c)(1) and (c)(2).

Analysis:

Customs disagrees. In this instance, the examples are beneficial.

Comment:

Section 191.65(a), referring to when certificates of delivery are required, should specifically set out that these certificates are to be used to record transfers of same condition drawback merchandise.

nalysis:

Although section 191.145 (redesignated as section 191.141(e)), prodes that the provisions relating to direct identification drawback pply to same condition drawback when not inconsistent, we beeve this comment has merit. Therefore, in the last sentence of at section, a specific cross-reference to section 191.65 is being dded.

omment:

Section 191.66 should emphasize the fact that the principal needs submit only a certificate of manufacture or certificate of manucture and delivery when the principal uses agents to accomplish me or all of the manufacturing process.

nalysis:

Section 191.66(b) is being revised by adding a provision that in rtain circumstances, Customs will waive the requirement for an gent to file certificates of manufacture and delivery.

omment:

The words "prepared and executed by the importer" should be dded after "Customs Form 7543" in section 191.65(a). Also, the ords "prepared and executed by the manufacturer" should be dded after "Customs Form 7577" in section 191.66(a).

nalysis:

Customs disagrees. Both forms are self-explanatory concerning w they should be completed.

omment:

In section 191.66(f)(1), the "-B" after "Customs Form 7577" ould be deleted.

nalysis:

Customs agrees and is making the change.

omment:

A question was raised whether the phrase "evidence of clearce" means the same as "evidence of exportation."

nalysis:

The meanings are the same. Customs believes the new reference "clearance" is a better choice of words.

SUBPART G

omment:

Courtesy notices should be issued for all drawback liquidations. lletin notices should be coded to differentiate between payments accelerated drawback and final liquidation.

Analysis:

Courtesy notices are generated from the Customs Headquarters Data Center and are issued at the time of each drawback liquidation. However, the courtesy notice is not generated for accelerated payments. Section 159.9(d), Customs Regulations, states that Customs will endeavor to provide importers or their agents with a courtesy notice. We include drawback claimants who have liquidated claims because notices are generated for all liquidations. However, because accelerated payments are not liquidations, these payments are not posted as bulletin notices.

Comment:

There should be a provision added to section 191.71 to cover a situation when the drawback liquidator is unable to secure the import entry. It is suggested that if Customs is unable to secure import entries necessary for liquidations within 6 months after the claim is filed, the claimant has the right to reconstruct the entry.

Analysis:

In such instances, reconstruction of the import entry by the importer or claimant would be the basis for liquidation in accordance with section 191.71. However, this matter is better discussed in a manual supplement to Customs officers rather than in the regulations.

Comment:

In section 191.71(d), there should be a cross-reference in section 159.1 wherein the term "liquidation" is defined.

Analysis:

Customs believes that this cross-reference is unnecessary.

Comment:

The heading and language of section 191.71(e)(1) are confusing and should be clarified.

Analysis:

This comment has merit. The section heading is being changed to read "Distribution and value for multiple products." In section 191.71(e)(1), the phrase "manipulation of imported" is being removed and the phrase "manufacture or production of" is being added in its place.

Although 19 U.S.C. 1313(a) refers to "manipulation," this term may be confusing. Under the statute, a manufacture or production must occur. Because the exported articles may be manufactured with imported or domestic merchandise or a combination thereof, unless the word "imported" is deleted, claimants may feel relative values do not apply when domestic merchandise is used to produce the exported articles.

Comment:

Similar suggestions for clarification were made concerning section 191.71(e)(2). Additionally, there should be a reference in section 191.71(e)(2) to 19 U.S.C. 1313(b).

Analysis:

This comment has merit. The suggestion relating to 19 U.S.C. 1313(b) is being adopted by removing the reference to 19 U.S.C. 1313(a). Therefore, section 191.71(e)(2) is being amended to read:

> (2) *Value.* The values to be used in computing the distribution of drawback where two or more products result from the manufacture or production of merchandise under drawback conditions shall be the market value unless another value is approved by Customs.

Comment:

Section 191.72(b) should be clarified to indicate that when unliquidated accelerated drawback amounts in claims filed (rather than actual claims as proposed), exceed the estimated amount of accelerated drawback to be received over the bond period, the regional commissioner is to demand additional coverage.

Analysis:

Customs agrees. Therefore, in the last sentence of this section, the word "actual" is being removed and the words "outstanding unliquidated" are added in its place. This will emphasize that only unliquidated entries can be charged against the estimated total accelerated drawback during the bond period when the regional commissioner must decide whether to demand additional coverage.

Comment:

The language should be changed in section 191.72(d) so that regional commissioners shall deny the privilege to receive accelerated drawback to those claimants who "consistently" file claims in excess of the amount due.

Analysis:

Customs disagrees. The operative word currently in that section is "repeatedly." "Consistently" would require a finding by the regional commissioner that the claimant uniformly and always files overclaims. "Repeatedly" implies a frequency of overclaims to the point that the revenue is threatened, but does not require constant and uniform filings of overclaims.

Comment:

The language of section 191.72(d) should be changed in part to read "accelerated payment will be denied to claimants who are repeatedly delinquent in remitting excess-payments received."

Analysis:

To do so would allow claimants repeatedly to file overclaims and retain the privilege of accelerated drawback as long as the overpayments they receive are promptly returned to the Government. Thus, they would be getting interest free loans. Additionally, the words "the right to receive" appear to be misleading and are being removed.

Comment:

Section 191.73(a) should provide that an importer may reserve the right to drawback.

Analysis:

Customs believes that the section should not be changed. However, it is noted that drawback may be assigned to an importer under section 191.73(b).

Comment:

The phrase in section 191.73(a) "at the time of sale or consignment of the articles" should be removed.

Analysis:

Customs agrees. Reservation of the right to drawback may be made at a time other than at the time of sale or consignment. Therefore, the phrase is being deleted.

Comment:

An example (such as "The undersigned hereby authorizes, etc. ——— (claimant) to receive drawbank * * *") should be included in 191.73(b).

Analysis:

Customs believes that an example is not necessary in this case

SUBPART H

No comments.

SUBPART I

Comment:

Section 191.93(e)(1) should be amended to include those activities which confer eligibility for drawback on supplies laden aboard vessels.

Analysis:

Customs disagrees because the activities are included on Customs Form 7514.

Comment:

Because of the multitude of ladings of fuel on foreign-bound aircraft by single suppliers who now must list each aircraft or vessel on the reverse of Customs Form 7514, section 191.93(j)(2) should be amended to provide the composite notice required by this section to list only the total amount of fuel laden during a calendar month.

Analysis:

Customs is unable to adopt this suggestion. Each form must be signed by the owner or operator of the vessel or aircraft who has "knowledge of the facts" that the fuel was laden and is to be used in foreign travel, as provided in section 191.93(j)(3). Owners and operators would be unable to complete the "Declaration of Master or other Officer" as required on this form if the form covers fuel ladings on many aircraft or vessels which (1) are not listed on the form and (2) are not owned by the person or agent completing the form. The person supplying the fuel in most instances involving aircraft is not the owner or operator of the aircraft.

SUBPART J

No comments.

SUBPART K

Comment:

Section 191.113(a), does not conform to the language of 19 U.S.C. 1313(g), in discussing the materials which are eligible for drawback under that provision.

Analysis:

The language after the phrase "and not" is to conform to rulings which have held that "repair" of a vessel was not the "construction" thereof, and that certain furnishings, luxury items and the like, not a part of the vessel nor necessary by law or regulation for the safe operation of the vessel, cannot be the subject of drawback.

Customs rulings follow the intent of Congress. If an article is not attached to, or made a part of, a vessel or is merely placed aboard the vessel and not required for safe operation of the vessel or safety of the crew, Congress did not intend that it be the subject of drawback.

SUBPART L

No comments.

SUBPART M

Comment:

Section 191.131(a) should be amended to include foreign trade zones.

Analysis:

Customs disagrees because merchandise in a foreign trade zone is not the type of Customs custody to which this section relates.

Comment:

The proposed reduction of the period of time in which to file a bill of lading in section 191.136(a) from 2 years to 6 months is too short. This limitation could cause problems, and therefore it is suggested that a provision be added to permit an extension. Under paragraph (d), it is suggested that the definition of "bill of lading" be included in this section.

Analysis:

Under section 191.136(a), Customs agrees that a longer period of time is needed. Therefore the "6 months" will be changed to read "2 years." With this change, no extension should be needed and an extension would not be granted. C.S.D. 82-59 describes in detail the three principal types of bills of lading and their use. Therefore, no addition to paragraph (d) is needed.

SUBPART N

General Statement. Customs received considerable comments objecting to the proposed regulations on same condition drawback. Commenters' objections related to provisions on the operational time frames, examination of the merchandise, and legal issues. It is claimed that the proposal makes it almost impossible to claim drawback.

The title of Subpart N, "Same Condition Drawback" is misleading because that subpart also discusses rejected merchandise under 19 U.S.C. 1313(c).

Analysis:

Customs agrees and has revised the title of Subpart N to read "Same Condition and Rejected Merchandise Drawback." The section numbers under Subpart N have been redesignated to conform to this change.

Comment:

Section 191.141(a) (redesignated as section 191.141(a)(1)) should be rewritten to emphasize that imported merchandise destroyed under Customs supervision need not be in the same condition.

Analysis:

Customs believes the legislative history is clear that when destroyed, the merchandise must be in the same condition as when imported. This is clear from the intent of law. If it were not so, anyone could import an article, allow it to deteriorate, and then receive drawback. The same importer could put the article to its intended use which is prohibited by the statute (see C.S.D. 81-222 of May 27, 1981, Vol. 15, Cus. Bul. p. 1171) and then claim the article had merely deteriorated and not used prior to destruction.

Comment:

Subpart N should provide that certificates of delivery are acceptable for same condition drawback.

Analysis:

Customs has so stated this in rulings, and Subpart N specifically states that were applicable, the provisions for manufacturing drawback apply to same condition drawback. Moreover, section 191.142(a), (redesignated as section 191.141(b)(1)), states transfers will be documented by certificate of delivery.

Comment:

Subpart N should incorporate a definition of "same condition," in addition to "use." Operations, which do not constitute a use should leave the article in its same condition. This commenter also asked if all processes not amounting to a process of manufacture leave an article in its same condition.

Analysis:

"Use" is defined in section 191.141(c), (redesignated as section 191.141(a)(3)). However, questions relating to "same condition" are more properly the subject of Customs rulings rather than the regulations.

Comment:

Section 191.142(a), (redesignated as section 191.141(b)(1)), should be changed to permit the same condition claim to be filed with any Customs officer at the port of exportation rather than with "any district director."

Analysis:

This comment has merit. Therefore, this section is being amended by removing "with any district director" in the first sentence and adding in its place, * * * "with the regional commissioner, or the district (area) director or port director, if authority has been delegated to that official by the regional commissioner."

Comment:

Section 191.142(a), (redesignated as section 191.141(b)(1)), should be amended by removing the word "certify" in the third sentence, and adding the word "state" in its place.

Analysis:

Customs disagrees. The claimant is required to certify by signature on an affidavit attesting to the condition of the merchandise to be exported.

Comment:

The last sentence of section 191.142(a), (redesignated as section 191.141(b)(1)), should be changed to, "* * * Transfer when the claimant is not the importer shall be documented by the use of certificates of delivery attached to Customs Form 7539."

Analysis:

Customs disagrees. The proposed sentence is satisfactory.

Comment:

Other comments on section 191.142 included:

There is no intent in the same condition drawback statute that prior notice of exportation and examination of same condition merchandise are required to obtain the benefits of that law. Prior notice and filing requirements will limit, or may eliminate, potential same condition drawback claimants. Although exporter's summary procedure obviates prior notice of exportation, many claimants may not qualify for this procedure. Filing documents prior to exportation is unrealistic and was not contemplated by the law. Prior notice and examination for same condition drawback is too stringent a procedure. There should be no prior notice of same condition drawback.

The 12-working day filing period in section 191.142(b), (redesignated as section 191.141(b)(2)), is too long and should be shortened to 5 days or 3 days. District directors should have authority to give a blanket waiver of the prior notice requirement. It is suggested that after a certain period of time, a claimant, operating under the summary procedure or generally under the same condition drawback regulations, and who has made a certain number of claims without incident, should be relieved of the requirement of prior notice.

Commenters stated that no examination of any kind, as discussed in sections 191.142 (c)(1) and (c)(2), (redesignated as sections 191.141 (b)(3)(i) and (b)(3)(ii)), should be required as this was never contemplated by the statute. Subsection (b)(3)(ii) should be completely removed and the following added in its place: "The Customs officer at the port of export may examine any merchandise to be exported with drawback." Examination for same condition drawback as drafted is too stringent.

Alternatives to the examination requirement were suggested. The 10 days afforded the district director to inform the claimant whether examination would be required should be shortened to 3 days or less. The district director should be given the authority to give a blanket waiver of examination to claimants.

If examination is required, it should be conducted with the same frequency as the immediate delivery examinations with imported merchandise, (i.e. not more than 10 percent examination, with such examination to be evenly and randomly accomplished). Section 191.142(c)(2) (redesignated as section 191.141(b)(3)(ii)) and 191.142(b), (redesignated as section 191.141(b)(2)), should be amended to read: "filed with the Customs officer at the port of examination not later than the date of exportation and not sooner than 12 working days prior to exportation."

Analysis:

Although the phrases "prior notice" or "prior filing" and the word "examination" are not statutory, Customs believes that some steps are necessary to avoid revenue losses, and there should be some method to handle the many contemplated exportations. Customs agrees that its operational guidelines and the proposed regulations proved to be too restrictive, although Customs has the authority to promulgate such "rules and regulations" under 19 U.S.C. 1313(k).

Customs has determined that regional commissioners (or their delegates) should be given authority to grant blanket waivers of the prior notice requirement. Of course, the prior notice waiver notwithstanding, Customs has the right to examine any merchandise prior to exportation. Claimants who do not qualify for exporter's summary procedure, or who do not wish to use that procedure, should be allowed to export merchandise under same condition drawback without prior notice under certain circumstances.

Therefore, Customs is revising proposed section 191.142(b), (redesignated as section 191.141(b)(2)) by further subdividing this redesignated section into paragraphs 191.141 (b)(2)(i) and (b)(2)(ii) to provide for:

1. Filing of Customs Form 7539 at least 5 working days prior to the date of intended exportation unless Customs approves a shorter period; and
2. Waiving of prior notice by the appropriate Customs officer in his discretion at any time, or mandatory waiving if the exporter/claimant files 6 consecutive claims free of substantial error, provided further that such exporter/claimant has operated under the same condition program a minimum of 6 months.

Customs also is revising the language of proposed section 191.142 (c)(1) and (c)(2), (redesignated sections 191.141(b)(3)(i) and (b)(3)(ii)), by:

1. Changing the proposed 10 working day notice requirements to 3 working days; and
2. Changing the proposed 10 working day examination requirement to 5 working days.

Furthermore, Customs is:

3. Adding a new section 191.141(b)(3)(iii) relating to examination procedures to be used by Customs; and
4. Removing proposed section 191.142 (d)(1) and (d)(2).

Comment:

Sections 191.143 should be amended to allow 3 years after exportation for filing and completing the same condition drawback claims.

Analysis:

This comment has merit, and Customs is so revising proposed section 191.143 (redesignated as section 191.41(c)).

Comment:

Section 191.44 also should be amended to allow 3 years after exportation for filing and completing the same condition drawback claims.

Analysis:

Customs also is revising section 191.144 (redesignated as section 191.141(d)) to accomplish this. Furthermore, the reference in the second sentence of redesignated section 191.141(d) to Customs Form 7539 is being removed because a completed entry includes more than this form.

Comment:

Section 191.146(a) should be clarified as to the destruction of the merchandise under same condition drawback.

Analysis:

This comment has merit. This section (redesignated as section 191.141(f)(1)) is being so revised.

Comment:

The requirement in section 191.146(a) that claimants certify the merchandise is in the same condition and was not used prior to destruction is not consistent with the law. It is claimed that there is no requirement that the merchandise be in the same condition at the time of destruction.

Analysis:

The statutory language and the legislative history make it clear that if a claimant uses destruction in place of exportation to claim same condition drawback, in order to do so, at the time of destruction, the merchandise must be in the same condition as when imported. If there were no such requirement, anyone could import an article, change its condition by any method, then destroy the article and claim drawback. Certifying that the merchandise is in the same condition at the time of destruction is no different than such certification on the Customs Form 7539 prior to exportation. We require such certification so that if and when examination is waived, or if a claimant is given a waiver of prior notice, he will be not likely to run afoul of 18 U.S.C. 550 or 18 U.S.C. 1001 by filing a false affidavit. Requiring such certification is permitted by 19 U.S.C. 1313(k).

Comment:

In section 191.147, accelerated drawback should apply to same condition drawback.

Analysis:

This is correct and is in accordance with T.D. 81-242, dated September 4, 1981. Further, Subpart N states in 191.145, (redesignated as section 191.141(e)), that the provisions relating to direct identification drawback shall apply to claims for drawback under same condition, provided the provisions do not conflict. Nevertheless, because section 191.72(a) refers only to Subpart F, that section is being revised by adding a cross-reference to Subpart N.

Comment:

Section 191.147(a) should be amended to provide that drawback claims should be liquidated within 60 days rather than "as determined by the regional commissioner."

Analysis:

Section 209 of Pub. L. 95-410 added a new section 504 to the Tariff Act of 1930 (19 U.S.C. 1504), setting forth time frames for the liquidation of entries, or withdrawals of merchandise for consumption. However, this section does not apply to the liquidation of drawback entries. Customs believes no time limit should be imposed.

Comment:

The regulations should provide that if a drawback liquidator determines that a drawback claim is incomplete, he must notify the drawback claimant and afford the claimant an opportunity to substantiate the validity of the claim before it is liquidated.

Analysis:

Customs believes this suggestion has merit. Therefore proposed section 191.147. (redesignated as section 191.141(g)) is being revised by:

(1) Redesignating proposed paragraph (a) as paragraph (1);

(2) Adding a new paragraph (2) to incorporate the substance of the commenter's suggestion; and

(3) Redesignate proposed paragraph (b) as paragraph (3).

Comment:

Section 191.148(a)(2) should not state that rejected merchandise drawback under 19 U.S.C. 1313(c) is a limited form of same condition drawback under 19 U.S.C. 1313(j). Rejected merchandise should be treated as a separate statutory and drawback concept.

Analysis:

Customs agrees that the language of this proposed section may be misleading. Customs recognizes the separate statutory authority of both same condition and rejected drawback. Proposed section 191.148(a)(2), (redesignated as section 191.142(a)(2)), is being revised merely to indicate rejected merchandise may be the subject of a same condition drawback claim.

Comment:

There is no time limit specified for filing a rejected merchandise claim in section 191.148(b) (1) or (2). The question is raised whether the limit is the same as for the same condition drawback.

Analysis:

To claim drawback for rejected merchandise, the claimant must file Customs Form 7539, which contains details of the alleged failure to meet specifications, at the time the merchandise is returned to Customs custody. Customs must examine the merchandise to determine if in fact it does not meet specifications or was shipped without the consent of the consignee. The claimant is required to file the entry at the time the merchandise is returned to Customs, so he is under a time limit.

Proposed section 191.148(b)(1), (redesignated as section 191.142(b)(1)), is being clarified to emphasize this point.

Comment:

The phrase "reasonable extensions" in section 191.148(b)(4) is too broad.

Analysis:

Customs disagrees. Customs Headquarters and the field offices review each request on a case-by-case basis in determining whether to grant an extension and the length any extension granted. The phrase provides Customs with sufficient latitude in setting the extension.

Comment:

No examination should be required under 19 U.S.C. 1313(c).

Analysis:

Although that section does not explicitly mention examination, it does require that merchandise be returned to Customs custody "for exportation." Unless Customs can examine the merchandise, we cannot determine whether in fact it does not meet specifications. This was the intent of Congress in requiring the return of the rejected merchandise.

Comment:

Section 191.148(b)(5) requires the exporter/claimant of rejected merchandise to establish the fact of exportation described in section 191.52, (as revised in this final rule), which requires a notice of exportation supported by a bill of lading. Currently, section 22.33(f), Customs Regulations, requires only the bill of lading.

Analysis:

Customs agrees and believes it is unnecessary to require additional paperwork for rejected merchandise claimants, especially since the merchandise is returned to Customs custody prior to exportation. Therefore, proposed section 191.148(b)(5) (redesignated as section 191.142(b)(5)), is being revised to indicate that if a bill of lading is provided Customs, no notice of exportation is required.

SUBPART O

Comment:

Subpart O should be amended to give alcoholic beverages the same status as domestic alcohol under 19 U.S.C. 1313(d).

Analysis:

Prior to 1959, the Internal Revenue Code treated domestic alcohol and distilled spirits differently. As a result, Customs did (and still does) not consider whiskey, brandy, rum, etc. as "domestic alcohol." 19 U.S.C. 1313(d) allows drawback only on domestic alcohol.

In 1959, the Internal Revenue Code was amended to allow drawback under the concept that any product of a distilled spirits plant for beverage use was eligible. However, at that time, 19 U.S.C. 1313(d) was not amended by the Congress. Therefore, Customs still holds that in order to come under the first paragraph of 19 U.S.C. 1313(d), the "alcohol" used must be "Spirits distilled at more than 160 degrees of proof, which lack the taste, aroma, and other characteristics generally attributed to whiskey, brandy, rum, or gin, and which are substantially neutral in character * * *", as defined in 27 CFR 19.597(a)(1).

Comment:

Section 191.158, allows the claimant 90 days to export the unmarketable distilled spirits from the date of acceptance of the drawback entry, the time period being conclusive unless a written request is made for additional 90 days. The commenter notes this time frame does not apply in Subpart N to rejected merchandise other than distilled spirits.

Analysis:

Section 191.158 tracks the present internal revenue regulations applicable to unmarketable distilled spirits. Customs administers the payment of drawback for unmarketable spirits. Under 19 U.S.C. 1313(c), the rejected merchandise must not meet sample or specification at the time of importation. Unmarketable spirits may be perfect at importation, but become unmarketable after importation. Rejected merchandise provisions and unmarketable spirits provisions are two different drawback concepts and are handled differently. If an importer wishes to receive drawback on the *duty* paid on distilled spirits, he must apply and meet the standards of 19 U.S.C. 1313(c) and the requirements of those attendant regulations. Subpart O refers only to internal revenue taxes.

Comment:

The statute authorizing refund of internal revenue taxes on distilled spirits which are unmarketable, (26 U.S.C. 5062(c)), requires the Secretary to "refund, remit, rebate, or credit" but does not refer to "drawback." The benefit authorized by 26 U.S.C. 5062(c does not meet the definition of "drawback" as stated in sectio 191.2. To define drawback as "in refund * * *" would not be appropriate as applied to the Internal Revenue Code. It is suggested tha these regulations be included with other regulations dealing with a refund and for a cross-reference be put in Part 191. Alternatively section 191.0, ("Scope"), might be expanded to include certain refunds, etc.

Analysis:

Customs believes no change is necessary.

Customs definition of "drawback" is a refund of duties and internal revenue tax paid, etc. Also, the definition of "duties" in the present regulations includes internal revenue taxes. Notwithstanding the enabling legislation's reference to "refund, remit, etc.," the return of those taxes paid under 26 U.S.C. 5062(c) fits our definitio of "drawback." Because Customs is the agency refunding those taxes, we prefer to call it "drawback."

Comment:

Under 26 U.S.C. 5062(c) only the importer may receive the refund of internal revenue taxes for unmerchantable spirits provided under Subpart O. Therefore, it should be made clear that the term "exporter/claimant" in section 191.148(b) can refer only to the importer for purposes of Subpart O.

Analysis:

Under 19 U.S.C. 1313(c), to which Subpart N refers in part, the importer or consignee can apply for and receive duties for rejected merchandise. Therefore, should a claimant under 26 U.S.C. 5062(c wish to receive the *duty* paid as drawback, such claimant need not be the importer but could be the consignee and must meet the burden of proof under Subpart N. A consignee also may obtain internal-revenue taxes under 19 U.S.C. 1313(c) or 1313(j) provided he meets the requirement of the applicable regulations in Subpart N. However, the comment with respect to Subpart O is correct and therefore sections 191.152, 191.153(b) and 191.158 are being amended so that the export/claimant can be only the importer.

SUBPART P

Comment:

There should be included in section 191.163(a) the phrase "including foreign trade zones" after "* * * on articles manufactured or produced in the United States * * *"

Analysis:

This is superfluous inasmuch as foreign trade zones are in the United States. Anything manufactured or produced in a zone is manufactured or produced in the United States.

OTHER CHANGES

1. T.D. 82-204 (47 FR 49355, Nov. 1, 1982), made extensive revisions to the Customs Regulations relating to bonded warehouses. Sections 22.28(d), Customs Regulations, was so amended. Therefore, to conform to T.D. 82-204, it is necessary to amend the parallel section in the revision to 22.28(d) which is section 191.133(c).

2. To conform the Customs Regulations to the changes made by the removal of Part 22, Customs Regulations, and the addition of new Part 191, Customs Regulations, the notice document proposed to amend Parts 7, 10, 113, 145, and 158. Subsequent to the publication of the proposed revision on August 26, 1982, section 7.8, Customs Regulations, was amended by T.D. 83-7 (48 FR 228, January 4, 1983), by removing the parenthetical phrase at the end of that section. Therefore, there is no need to further amend section 7.8 in this document.

3. Section 22.20a, and its parallel section 191.72, relating to accelerated payment of drawback claims, provides that a claimant, requesting accelerated payment of a claim, shall submit with the claim a computation of the amount thereon, and shall also file with Customs for approval by the regional commissioner, a bond on either Customs Form 7609 or 7611. Part 113, Customs Regulations, however, provides for approval of bonds by the Commissioner of Customs and the district director, but does not provide for approval of bonds by the regional commissioner. Specifically, section 113.14(x)(1), relating to single entry bond, Customs Form 7609, for Accelerated Payment of Drawback (Single Entry), and section 113.14(x)(2), relating to term bond, Customs Form 7611, for Accelerated Payment of Drawback (term), are subject, after execution, to approval by the district director. To remove this inconsistency between Parts 22 (and Proposed Part 191) and Part 113 as well make other technical clarifications, this document amends by revising, adding, and removing the following provisions to provide that authority for approval or rejection of accelerated drawback payment shall remain with the regional commissioners:

1. Section 191.72(b), (revised);
2. Subpart B—"Classes and Approval of Bonds" in the index to Part 113, (revised);
3. Section 113.11(b), (revised);
4. Section 113.13a, (new);
5. Sections 113.14 (x)(1) and (x)(2), (removed);
6. Section 113.16, (revised); and,
7. Section 113.18, (revised).

REMOVAL FROM REGULATIONS

The following sections of Part 22 are removed from the revision:

1. Sections 22.6 (a), (b), (c), and (d), relating to general drawback rates;

2. Section 22.6(e), relating to bags and meat wrappers;
3. Section 22.6(f), relating to sugars and syrups;
4. Section 22.6(g), relating to linseed oil;
5. Section 22.6(g-1), relating to crude petroleum and petroleum derivatives;
6. Section 22.6(h), relating to piece goods;
7. Section 22.6(i), relating to fur skins and fur skin articles;

By removing from the revision the sections set forth in number 2-7 above, however, no member of the public would be forfeitin any rights and benefits. Questions concerning these substantiv areas, which may arise in the future, may be addressed by a request for a ruling pursuant to Part 177, Customs Regulations (1 CFR Part 177). A drawback proposal may be submitted pursuant t Subpart B. Also, Customs Headquarters will publish as Treasur Decisions, as it has already done so in some cases, general drawback contracts under Subpart D on the above sections.

EDITORIAL CHANGES

Throughout the revision, numerous editorial changes have bee made to clarify and simplify the language contained in the drawback regulations, as well as correct typographical errors.

CONFORMING CHANGES

Various parts of Chapter I, title 19, Code of Federal Regulations have sections which contain cross-references to Part 22. This document amends those sections of the Customs Regulations by conforming the cross-references found therein to new Part 191.

EXECUTIVE ORDER 12291

This document does not meet the criteria for a "major rule" a specified in section 1(b) of E.O. 12291. An analysis of this determination is appended hereto.

REGULATORY FLEXIBILITY ACT

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601, *et seq.*), it is hereby certifie that the revision of Part 22 will not have a significant economi impact on a substantial number of small entities. An analysis o this determination is appended hereto.

PAPERWORK REDUCTION ACT

Pursuant to section 3504(h) of the Paperwork Reduction Act o 1980 (Pub. L. 96-511), this document is subject to review by th Office of Management and Budget (OMB). The proposed revision approved by OMB, was assigned No. 1515-0094.

DRAFTING INFORMATION

The principal author of this document was Charles D. Ressin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

LIST OF SUBJECTS IN 19 CFR PART 191

Customs duties and inspection, exports, imports, claims, drawback.

AMENDMENTS TO THE REGULATIONS

Chapter 1, "United States Customs Service," of Title 19, Code of Federal Regulations (19 CFR Chapter 1), is amended as set forth below.

WILLIAM VON RAAB,
Commissioner of Customs.

Approved: September 21, 1983.
JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, October 14, 1983 (48 FR 46740)]

PART 22—DRAWBACK [REMOVED]

Chapter I of title 19, Code of Federal Regulations, is amended by removing Part 22.

Chapter I of title 19, Code of Federal Regulations, is further amended by adding a new part, Part 191, to read as follows:

PART 191—DRAWBACK

Sec.

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191.161 Drawback allowance.
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191.166 Person entitled to receive drawback.

Authority: R.S. 251, as amended, secs. 313, 624, 46 Stat. 693, a amended, 759, 77A Stat. 14; 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Headnote 11), 1313, 1624, Additional authority and statutes interpreted or applied are cited in the text or following the section affected.

Source: T.D. 83-212 48 FR 46740, unless otherwise noted.

§ 191.0 Scope.

This part sets forth general provisions applicable to all drawback claims and specialized provisions applicable to specific types of drawback claims.

SUBPART A—GENERAL PROVISIONS

§ 191.1 Authority of the Commissioner of Customs.

Pursuant to Treasury Department Order No. 165, Revised (T.D. 53654, 19 FR 7241), as amended, the Commissioner of Customs, with the approval of the Secretary of the Treasury, shall prescribe rules and regulations regarding drawback.

§ 191.2 Definitions.

(a) *Drawback.* "Drawback" means a refund or remission, in whole or in part, of a customs duty, internal revenue tax, or fee lawfully assessed or collected because of a particular use made of the merchandise on which the duty, tax or fee, was assessed or collected.

(b) *Designated merchandise.* "Designated merchandise" means imported duty-paid merchandise or drawback products identified (either physically or by accounting methods), by a drawback claimant as the basis for a drawback claim under 19 U.S.C. 1313(b).

(c) *Drawback proposal.* A "drawback proposal" means a written document executed by a manufacturer or producer which contains an offer to operate under the drawback law and regulations.

(d) *Drawback acceptance.* "Drawback acceptance" means a letter from Customs to the manufacturer or producer accepting the proposal. Regional commissioners of Customs accept proposals filed pursuant to 19 U.S.C. 1313(a). U.S. Customs Headquarters accepts proposals in all other cases.

(e) *Specific drawback contract.* A "specific drawback contract" means the drawback proposal and the drawback acceptance. Synopses of contracts are published in the weekly "Customs Bulletin," where each contract is assigned an identifying Treasury Decision (T.D.) number.

(f) *General drawback contract.* A "general drawback contract" means a contract offer prepared by Customs and published in the "Customs Bulletin", and a letter of acceptance by anyone able to comply with its terms and conditions. Letters of acceptance to adhere to the terms shall be filed with a regional commissioner.

(g) *Drawback product.* A "drawback product" means a finished or partially finished product manufactured in the United States under a drawback contract. A drawback product may be exported with a claim for drawback, or it may be used in the further manufacture of other drawback products by manufacturers who have appropriate drawback contracts, in which case drawback is claimed upon exportation of the ultimate product. For purposes of 19 U.S.C. 1313(b), drawback products may be designated as the basis for drawback or deemed to be domestic merchandise.

(h) *Drawback entry.* A "drawback entry" means a document containing a description of, and other required information concerning, exported or destroyed articles on which drawback is claimed. Depending on the type of drawback applied for, entries are filed on Customs Form 7512, 7539, 7573, 7575, 7579, or 7585.

(i) *Drawback claim.* A "drawback claim" means the drawback entry and related documents required by these regulations which together constitute the request for drawback payment.

(j) *Direct identification drawback.* "Direct identification drawback" means drawback authorized under section 313(a), Tariff Act of 1930, as amended (19 U.S.C. 1313(a)). See section 191.4(a)(1) of this part.

(k) *Substitution drawback* "Substitution drawback" means drawback authorized under section 313(b), Tariff Act of 1930, as amended (19 U.S.C. 1313(b)). See section 191.4(a)(2) of this part.

(l) *Fungible merchandise.* "Fungible merchandise" means merchandise which for commercial purposes is identical and interchangeable in all situations.

(m) *Same kind and quality merchandise.* "Same kind and quality merchandise" means merchandise which may be substituted under substitution drawback. Fungible merchandise is always same kind and quality merchandise; however, same kind and quality merchandise is not always fungible merchandise.

(n) *Schedule.* A "schedule" means a document filed by a drawback claimant showing the quantity of imported material used or appearing in each unit of product exported with drawback or showing the different styles or the capacities of containers for the products.

(o) *Verification.* "Verification" means the examination of any and all records, (see section 162.1a(a) of this chapter), maintained by the claimant, whether or not specifically described in the claimant's proposal, which are required by the regulatory auditor to render a meaningful recommendation concerning the drawback claimant's conformity to the law and regulations and the determination of supportability, correctness, and validity of the specific claim or groups of claims being verified. Verification also includes a determination that the exported product was produced in conformity with the drawback manufacturing process, as described and approved in the claimant's proposal.

(p) *Abstract of manufacturing records.* "Abstract of manufacturing records" means a summary of original documents. A Drawback Entry and Certificate of Manufacture for Exported Articles, Customs Form 7575, or Certificate of Manufacture and Delivery Customs Form 7577, when properly completed, may serve as abstracts of manufacturer's records.

§ 191.3 Duties subject to drawback.

The duties subject to drawback include:

(a) All ordinary Customs duties:

(b) Dumping duties assessed under title VII, Tariff Act of 1930, as amended (19 U.S.C. 1673):

(c) Countervailing duties assessed under sections 303 and 701, Tariff Act of 1930, as amended (19 U.S.C. 1303, 1671); and

(d) Marking duties assessed under section 304(c), Tariff Act of 1930, as amended (19 U.S.C. 1304(c)).

§ 191.4 Types of drawback.

(a) *Drawback of duties and taxes.* Drawback of duties and taxes ordinarily are authorized in the following instances:

(1) *Direct identification drawback.* Drawback of duties is provided for in section 313(a), Tariff Act of 1930, as amended (19 U.S.C. 1313(a)), upon the exportation of articles manufactured or produced in the United States wholly or in part with the use of imported merchandise.

(2) *Substitution drawback.* If imported duty-paid merchandise and duty-free or domestic merchandise of the same kind and quality are used in the manufacture or production of articles within a period not to exceed 3 years from the receipt of the imported merchandise by the manufacturer or producer of the articles, drawback is provided for in section 313(b), Tariff Act of 1930, as amended (19 U.S.C. 1313(b)), upon the exportation of any of the articles, even though none of the imported merchandise may actually have been used in the manufacture or production of the exported articles. The amount of drawback is the same as that which would have been allowed had the merchandise used therein been imported.

(3) *Merchandise not conforming to sample or specifications or shipped without consent of consignee.* Drawback is provided for in section 313(c), Tariff Act of 1930, as amended (19 U.S.C. 1313(c)) upon the exportation of imported merchandise not conforming to sample or specifications or shipped without consent of the consignee.

(4) *Drawback of internal-revenue taxes.* Drawback of internal-revenue taxes is provided for in section 313(d), Tariff Act of 1930, as amended (19 U.S.C. 1313(d)), upon the exportation of flavoring extracts and medicinal or toilet preparations (including perfumery) manufactured or produced in the United States in part from domestic tax-paid alcohol.

(5) *Imported salt for curing fish.* Drawback of duties is provided for in section 313(e), Tariff Act of 1930, as amended (19 U.S.C. 1313(e)), on salt imported in bond and used in curing fish. (See section 10.80 of this chapter.)

(6) *Exportation of meats cured with imported salt.* Drawback of duties is provided for in section 313(f), Tariff Act of 1930, as amended (19 U.S.C. 1313(f)), in amounts of not less than $100, upon the exportation of packed or smoked meats cured in the United States with imported salt.

(7) *Material for construction and equipment of vessels and aircraft built for foreigners.* Drawback of duties is provided for in section 313(g), Tariff Act of 1930, as amended (19 U.S.C. 1313(g)), on materials imported and used in constructing and equipping vessels and aircraft built for foreign account and ownership or for the government of any foreign country, even though these vessels and aircraft may not be exported within the strict meaning of the term.

(8) *Foreign-built jet aircraft engines processed in the United States.* Drawback of duties is provided for in section 313(h), Tariff Act of 1930, as amended (19 U.S.C. 1313(h)), in amounts of not less than $100, upon the exportation of jet aircraft engines manufactured or produced abroad that have been overhauled, repaired, rebuilt, or reconditioned in the United States with the use of imported merchandise, including parts.

(9) *Same condition drawback.* Drawback of duties is provided for in section 313(j), Tariff Act of 1930, as amended (19 U.S.C. 1313(j)), on imported merchandise exported in the same condition as when imported, or destroyed under Customs supervision and not used within the United States before such exportation or destruction.

(10) *Supplies for certain vessels and aircraft.* Drawback of duties is provided for in section 309(b), Tariff Act of 1930, as amended (19 U.S.C. 1309(b)), on articles withdrawn from bonded warehouses, bonded manufacturing warehouses, continuous Customs custody elsewhere than a bonded warehouse, or foreign trade zones, and articles of domestic manufacture or production, which are laden as supplies upon certain vessels or aircraft of the United States or as supplies including equipment upon or used in the maintenance or repair of certain foreign vessels or aircraft.

(11) *Merchandise exported from continuous Customs custody.* Drawback of duties is provided for in accordance with section 557(a), Tariff Act of 1930, as amended (19 U.S.C. 1557(a)), upon the exportation to a foreign country, or the shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or Guam, of merchandise upon which duties have been paid which has remained continuously in bonded warehouse or otherwise in Customs custody since importation, provided it was exported or shipped within 5 years after the date of its importation.

(12) *Merchandise transferred to a foreign trade zone from Customs territory.* Drawback of duties and taxes is provided for in accordance with the fourth proviso of section 3 of the Foreign Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81c), on merchandise transferred to a foreign trade zone from Customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage.

(b) *Refund of internal revenue taxes on imported distilled spirits, wines, or beer.* Refund, remission, abatement, or credit of internal revenue taxes paid or determined incident to importation on imported distilled spirits, wines, and beer is provided for in accordance with section 5062(c), Internal Revenue Code, as amended (26 U.S.C. 5062(c)), upon the exportation, or destruction under Customs supervision of these articles found after entry to be unmerchantable or not to conform to sample or specifications and which are returned to Customs custody.

§ 191.5 Retention of records.

All records required to be kept by the manufacturer or producer under this part with respect to drawback claims, and records kept by others to complement the records of the manufacturer or producer (see sections 191.21(a)(1) and 191.22(d) of this part), shall be retained for at least 3 years after payment of such claims.

§ 191.6 Authority to sign drawback documents.

(a) *Who shall sign.* Documents listed in paragraph (b) of this section shall be signed by one of the following:

(1) The president, a vice president, secretary, or treasurer of a corporation;

(2) A full partner of a partnership;

(3) The owner of a sole proprietorship; or

(4) Any person other than those described in paragraphs (a)(1) through (a)(3) of this section with a power of attorney. (See subpart C of Part 141 of this chapter.)

(b) *List of documents.* The following documents require execution in accordance with paragraph (a) of this section:

(1) Drawback entries.

(2) Certificates of delivery.

(3) Certificates of manufacture.

(4) Abstracts of manufacturing records.

(5) Proposals of manufacturers or producers, schedules, and supplemental schedules.

(6) Proposals of subcontractors.

(7) Letter of intention to adhere to general drawback contracts.

(8) Endorsements of exporters on bills of lading or notices of exportation.

(9) Authorizations by manufacturers, producers, exporters, or agents to pay drawback to other persons.

§ 191.7 Protests.

Protest procedures shall be in accordance with Part 174 of this chapter.

(Sec. 514, 46 Stat. 734, as amended; 19 U.S.C. 1514)

§ 191.8 Time limitations.

(a) *General time limit.* Drawback shall be allowed only [illegible] the completed article is exported within 5 years after importation of the merchandise identified or designated to support the claim.

(19 U.S.C. 1313(i))

(b) *Same condition drawback.* Drawback shall be allowed on imported merchandise if, before the close of the 5-year period beginning on the date of importation, the merchandise is exported in the same condition as when imported, or destroyed under Customs supervision, and is not used within the United States before such exportation or destruction.

(19 U.S.C. 1313(j))

(c) *Merchandise in continuous Customs custody.* Drawback shall be allowed on imported merchandise which is exported, or shipped from continuous Customs custody to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or Guam, only if exported or shipped within 5 years after the date of its importation.

(Sec. 557(a), 46 Stat. 744, as amended; 19 U.S.C. 1557(a))

§ 191.9 Falsification of drawback claims.

Any person who knowingly and willfully files any false or fraudulent entry or claim for the payment of drawback upon the exportation of merchandise or knowingly or willfully makes or files any false document for the purpose of securing the payment to himself or others of any drawback on the exportation of merchandise greater than that legally due, shall be fined not more than $5,000 or imprisoned no more than 2 years, or both, and the merchandise or its value shall be forfeited.

(Sec. 550, 62 Stat. 718; 18 U.S.C. 550).

§ 191.10 Verification of drawback claims.

(a) *Claims.* A drawback claim filed under a drawback contract shall be subject to verification by the regional Regulatory Audit Division under the jurisdiction of the regional commissioner in whose region the claim is filed when the factory covered by the claim also is located in the same region.

(b) *Two or more factories.* If the claim selected for verification is filed in one region and one or more factories covered by the claim is located in another region, the regional commissioner selecting the claim for verification, in addition to taking the verification action provided for in paragraph (a) of this section, may forward copies of the claim and the drawback contract, and request for verification to the regional commissioners in whose regions the other factories are located.

(c) *Method.* The verifying official shall verify the claim and material set forth in the related drawback contract. Verification shall include an examination of the manufacturing records and all the accounting and financial records relating to the transaction(s).

(d) *Liquidations.* When a claim has been selected for verification, the appropriate Customs official will be notified of the claimant's identity, and liquidation will be postponed on only those claims selected for verification. Postponement will continue in effect until the verification has been completed and the appropriate Deputy Assistant Regional Commissioner (Regulatory Audit) issues a report. In the event a substantial error is revealed during the verification, Customs may postpone liquidation of all related product line claims, or in Customs discretion, all claims.

(e) *Errors in drawback proposals.*—(1) *Contracts accepted by Customs Headquarters.*—(i) *Action by regional commissioner.* If verification of a drawback claim filed under a drawback contract accepted by Headquarters reveals errors or deficiencies in the drawback proposal on which the contract was based, the regional commissioner shall furnish a copy of the audit report to Headquarters (Attention: Drawback and Bonds Branch, Office of Regulations and Rulings).

(ii) *Action by Headquarters.* A regional commissioner forwarding an audit report to Headquarters shall suspend liquidation of all drawback claims filed under the contract. Headquarters shall offer the claimant an opportunity to correct its proposal within a specified time.

(iii) *If claimant does not correct proposals.* If the claimant does not take corrective action within the prescribed time, the appropriate regional commissioner shall liquidate the claim(s) "no drawback."

(2) *Contracts accepted by regional commissioner.* The regional commissioner shall offer the claimant an opportunity within a specified time to amend proposals that are the basis of contracts which he has accepted. If the claimant does not take corrective action within the prescribed time, the regional commissioner shall liquidate the claim(s) "no drawback."

§ 191.11 Merchandise in which a United States Government interest exists.

(a) *Restricted meaning of Government.* A United States Government instrumentality operating with nonappropriated funds shall not be considered a Government entity within the meaning of this section. Surety on any drawback bond undertaken by these instrumentalities will not be required.

(b) *Certificate.* With each drawback entry, except those filed pursuant to sections 313(c) and 313(j), Tariff Act of 1930, as amended (19 U.S.C. 1313 (c), (j)), the drawback claimant shall certify whether or not the merchandise concerned was sold to the United States Government.

(c) *Allowance of drawback.* If the merchandise was sold to the United States Government, drawback shall be available only to the:

(1) Department, branch, or agency of the United States Government, which purchased it; or

(2) Supplier, or any of the parties specified in section 191.73(b) of this part, provided the claim is supported by documentation signed by a proper officer of the department, branch, or agency concerned certifying that the right to drawback was reserved by the supplier with the knowledge and consent of the department, branch, or agency.

§ 191.12 Drawback on duties paid to Puerto Rico.

Any drawback of duties authorized under this part shall be paid from special fund 20X6587(A/R), Refunds, Transfers and Expenses of Operations, Puerto Rico, U.S. Customs Service, if the duties were originally paid into this fund (see 19 U.S.C. 1313(l)).

§ 191.13 Guantanamo Bay, insular possessions, trust territories.

Guantanamo Bay Naval Station shall be considered foreign territory for drawback purposes. However, under 19 U.S.C. 1313, there is no authority of law for the allowance of drawback of Customs duty on articles manufactured or produced in the United States and shipped to Puerto Rico, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Guam, Canton Island, Enderbury Island, Johnston Island, or Palmyra Island.

SUBPART B—SPECIFIC DRAWBACK CONTRACTS

§ 191.21 Drawback proposal.

(a) *Proper applicant.* Unless operating under a general drawback contract, each manufacturer or producer of articles intended for exportation with drawback, whether a primary, intermediate, or final manufacturer or producer of the articles and whether or not the owner of the merchandise used in the manufacture or production, shall apply for a specific drawback contract by submitting a drawback proposal. Procedures for adhering to a general drawback contract are provided in Subpart D.

(1) *Complementary recordkeeper.* Each person who keeps complementary records as provided for in section 191.22(d) of this part shall file a proposal describing these records in accordance with the procedure prescribed in this section. Complementary records may be signed by the complementary recordkeeper in accordance with section 191.6(a) of this part.

(2) *Subcontractors.* If a manufacturer or producer having a drawback contract engages a subcontractor to perform work which for drawback purposes does not constitute a manufacture or production, with the use of material which the principal plans to make the subject of a drawback claim, the subcontractor, unless operating under a general drawback contract, shall prepare a drawback proposal to establish how it will maintain the identification of the merchandise. The proposal, which is subject to the provisions of this section, is required only if the work performed by the subcontractor results in a problem in identification of the merchandise (for example, by changing its form or quantity).

(b) *Contents.* The proposal of each manufacturer or producer, complementary recordkeeper, and subcontractor shall:

(1) Describe his manufacturing operation fully and method of compliance with all requirements of the drawback law and regulations;

(2) State that the records of identification, manufacture or production, and storage prescribed in § 191.22 will be maintained; and

(3) Contain an agreement to follow the methods and keep records concerning drawback procedures.

(c) *Sample proposal.* Except for direct identification drawback, the Drawback and Bonds Branch, Office of Regulations and Rulings, Customs Headquarters, upon request, shall provide each prospective drawback applicant with a sample drawback proposal to assist the prospective applicant in preparing its submission. Sample proposals for direct identification drawback shall be provided by the regional commissioner upon request.

(d) *Submission.* Each manufacturer or producer who proposes to file for drawback exclusively under the provisions of section 313(a), Tariff Act of 1930, as amended (19 U.S.C. 1313(a)), shall submit the proposal described in paragraph (b) of this section, in duplicate, to the regional commissioner where its drawback entries will be liquidated. Each manufacturer or producer who proposes to file for drawback under the provision of section 313 (b), (d), (g), or (h), Tariff Act of 1930, as amended (19 U.S.C. 1313 (b), (d), (g), (h)), or in any combination of section 313(a), Tariff Act of 1930, as amended (19 U.S.C. 1313(a)), with section 313 (b), (d), or (g), shall submit the proposal described in paragraph (b) of this section, in triplicate, to Customs Headquarters (Attention: Drawback and Bonds Branch, Office of Regulations and Rulings).

(e) *Two or more regions involved.* If drawback entries are to be liquidated at more than one regional office, the manufacturer or producer shall file two additional copies of the proposal for each additional office.

§ 191.22 Records, storage, identification.

(a) *Records for direct identification and other non-substitution manufacturing drawback.* (1) *General Rule.* Except for record requirements under section 313(b), Tariff Act of 1930, as amended (19

U.S.C. 1313(b)), set forth in § 191.32 of this part, each manufacturer or producer shall keep records to establish for all articles manufactured or produced for exportation with drawback:

(i) The date or inclusive dates of manufacture or production;

(ii) The quantity and identity of the imported duty-paid merchandise or drawback products used in, or, if claim for waste is waived, and there are no multiple products, the quantity and identity of the imported merchandise or drawback products appearing in the articles manufactured or produced;

(iii) The quantity and description of the articles manufactured or produced;

(iv) The quantity of waste incurred. If claim for waste is waived and the appearing in basis is used, waste records need not be kept unless required to establish the quantity of imported duty-paid merchandise or drawback products appearing in the articles; and

(v) That the finished articles on which drawback is claimed were exported within 5 years after the importation of the duty-paid merchandise.

(2) *Valuable waste.* When waste has a value and the manufacturer or producer has not limited its claims to the quantity of imported duty-paid merchandise or drawback products appearing in the articles, it shall keep records to show the factory value of the imported duty-paid merchandise or drawback products used and the factory value of the waste. In liquidating the drawback entry, the quantity of imported duty-paid merchandise or drawback products used will be reduced by an amount equal to the quantity of merchandise the value of the waste would replace.

(3) *Duty-free or domestic merchandise.* The records of the manufacturer or producer shall show the quantity, if any, of duty-free or domestic merchandise used, when these records are necessary to determine the quantity of imported duty-paid merchandise or drawback products used in the manufacture or production of the articles or appearing in them.

(4) *Filing an abstract.* The drawback claimant shall file with the entry an abstract of the records of the manufacturer or producer.

(5) *Multiple products.*

(i) *General rule.* Where two or more products result from the use of merchandise, records shall show the value of each product at the time of separation.

(ii) *Claim covering a manufacturing period.* Where the operation results in two or more products and a claim covers a manufacturing period rather than a manufacturing lot, the time of separation of the products shall be considered the entire period covered by the claim, and the value per unit of product is its weighted average market value for the period. Manufacturing periods in excess of one month may not be used without specific approval of Customs.

(b) *Storage and identification.* The merchandise and articles to be exported shall be stored in a manner which will enable the manufacturer, producer, or claimant (1) to determine, and the Customs officials to verify, the applicable import entry, certificate of delivery, or certificate of manufacture and delivery number or numbers; and (2) to identify with respect to that import entry, certificate of delivery, or certificate of manufacture and delivery, the imported duty-paid merchandise or drawback products used in the manufacture or production.

(c) *Identification of two or more lots.* Manufacturers, producers, or claimants may identify for drawback purposes commingled lots of fungible merchandise and commingled lots of fungible products by applying first-in-first-out (FIFO) accounting principles or any other accounting procedure approved by Customs.

(d) *Complementary records.* When Customs Headquarters or the regional commissioner, in appropriate cases, determines that a manufacturer or producer is unable to record all the information required for drawback, complementary records covering the information not available to the manufacturer or producer may be kept by the person(s) in the United States for whose account the products are manufactured or produced; and abstracts of these records shall be filed with the drawback entry. (See § 191.21(a)(1)).

(e) *Records and storage of merchandise by persons required to certify its delivery.*—(1) *Storage and records.* Each person required by §§ 191.65 and 191.66(d) of this part to certify the delivery of imported merchandise or drawback products shall store this merchandise and products while in his possession and maintain records to show the:

(i) Quantity, identity, and description of the merchandise or products;

(ii) Date on which the merchandise or products were received by him;

(iii) Person from whom received;

(iv) Date delivered by him to other persons; and

(v) Persons to whom these deliveries were made.

(2) *Certificate or endorsements.* These records shall be the basis of the certificates or endorsements required by §§ 191.65 and 191.66(d) of this part.

§ 191.23 Approval.

(a) *General rule.* If the required proposal(s) comply with the law and regulations, the regional commissioner in a case under section 313(a), Tariff Act of 1930, as amended (19 U.S.C. 1313(a)), or Customs Headquarters in a case under section 313 (b), (d), (g), or (h), Tariff Act of 1930, as amended (19 U.S.C. 1313 (b), (d), (g), or (h)), or in any combination of section 313(a) with section 313 (b), (d), or (g), shall approve the drawback contract for a period of 15 years from the date of approval. (See § 191.26 of this part).

(b) *Two or more regions.* When a proposal under section 313(a), Tariff Act of 1930, as amended (19 U.S.C. 1313(a)), shows that entries are to be filed with more than one regional commissioner, the regional commissioner at the place first listed in the proposal has the authority to approve or disapprove the contract.

(c) *Drawback entries filed before contract issued.* Drawback entries may be filed before the drawback contract covering the claim is approved, but no drawback shall be paid until contract is approved.

(d) *Payment of drawback.* After approval of the contract, drawback will be paid on articles manufactured or produced and exported in accordance with the law, regulations, and contract.

§ 191.24 Schedules and supplemental schedules.

When a drawback contract provides that drawback shall be based upon a schedule filed by the manufacturer or producer, the appropriate regional commissioner where the entry is filed or Customs Headquarters, in accordance with § 191.23 of this part, shall review, and if satisfactory, approve the drawback schedule. If the contract authorizes the filing of supplemental schedules, schedules may be revised as necessary by the holder of the drawback contract. These revised supplemental schedules, if approved by the appropriate regional commissioner, shall be used to liquidate drawback claims.

§ 191.25 Modification of contracts.

(a) *Supplemental proposals.* A manufacturer or producer desiring to modify an existing contract shall prepare a supplemental proposal in the form of the original proposal. The supplemental proposal shall contain all information necessary for a complete contract, as provided in § 191.21 of this part.

(b) *Approval.* (1) *General.* Except as provided in paragraph (b)(2) of this section, the appropriate regional commissioner or Customs Headquarters shall approve a new drawback contract pursuant to § 191.23 of this part, for a period of 15 years from the date of its approval if the supplemental proposal complies with the law and regulations.

(2) *Limited modifications.* A supplemental proposal to modify an existing contract under section 313 (b), (d), or (g), Tariff Act of 1930, as amended, which otherwise would be submitted to Customs Headquarters, shall be submitted to the appropriate regional commissioner for approval provided the changes covered by the modification are limited to:

(i) A change in location of the factory of the manufacturer or producer;

(ii) An additional factory at which the methods followed and the records maintained are the same as those at another factory operating under an existing drawback contract of the manufacturer or producer;

(iii) The succession of a sole proprietorship, partnership, or corporation to the operations of the manufacturer or producer; or

(iv) Any combination of the foregoing changes.

(c) *Effect.* The new drawback contract shall supersede the contract which it modifies, and the Customs official who approves the new contract shall revoke the pre-existing contract without prejudice to claims existing thereunder.

§ 191.26 Termination or renewal.

Drawback contracts shall terminate 15 years from the date of approval unless, prior to the expiration of each 15-year period, the manufacturer or producer in accordance with § 191.23 of this part requests the applicable regional commissioner or Customs Headquarters to renew the contract for another 15-year period. A contract issued under section 313(a), Tariff Act of 1930, as amended (19 U.S.C. 1313(a)), covering two or more regions, shall be renewed by the regional commissioner who approved the contract. A manufacturer or producer may terminate its contract at any time by writing to the appropriate regional commissioner or Customs Headquarters, as applicable.

SUBPART C—USE OF SUBSTITUTED MERCHANDISE

§ 191.31 Drawback substitution.

The procedures set forth in subparts A and B of this part are applicable to drawback under the substitution provision (19 U.S.C. 1313(b)), except as otherwise provided in this subpart.

§ 191.32 Records and general provisions.

(a) *Records for substitution drawback.* The records of the manufacturer or producer of articles manufactured or produced in accordance with section 313(b), Tariff Act of 1930, as amended (19 U.S.C. 1313(b)), shall establish:

(1) The identity and specifications of the merchandise designated;

(2) The quantity of merchandise of the same kind and quality as the designated merchandise used to produce (or appearing in) the exported articles;

(3) That, within 3 years after receiving the designated merchandise at its factory, the manufacturer or producer used it in manufacturing or production and that during the same 3-year period, it manufactured or produced the exported articles; and

(4) That the completed articles were exported within 5 years after importation of the designated merchandise.

(b) *Valuable waste records.* When drawback claims are not limited to the quantity of merchandise appearing in the articles manufactured or produced for exportation with drawback, the records of the manufacturer or producer shall show the quantity and value of both the merchandise used in the manufacture or production of the articles and valuable waste incurred in order that the deduction provided for in § 191.22(a)(2) may be made in liquidation.

(c) *Exchanged petroleum.* To comply with paragraph (a)(3) of this section, the use of domestic crude petroleum exchanged for imported crude petroleum in conformity with Presidential Proclamation

No. 3279 of March 10, 1959, as amended, and the Oil Import Regulations issued thereunder, shall constitute use of the imported crude petroleum provided no certificate of delivery on Customs Form 7543 is issued covering this imported crude petroleum.

(d) *Use by same manufacturer or producer at different plants.* Duty-paid merchandise or drawback products used at one plant of a manufacturer or producer within 3 years after the date on which the material was received may be designated as the basis for drawback on articles manufactured or produced in accordance with these regulations at other plants of the same manufacturer or producer.

(e) *Designation.* A manufacturer or producer may designate any merchandise which it has used in manufacturing or production.

§ 191.33 Multiple products.

When two or more products are produced concurrently in an operation under section 313(b), Tariff Act of 1930, as amended (19 U.S.C. 1313(b)), drawback shall be distributed to each product in accordance with its relative value at the time of separation. Where the abstract covers a manufacturing period rather than a manufacturing lot, the entire period of the abstract is the time of separation of the products and the value per unit of product is the weighted average market value for the abstract period.

§ 191.34 Agency.

(a) *General rule.* If an owner of imported or domestic merchandise furnishes this merchandise to an agent in accordance with a contract between the two parties, and the agent manufactures from it articles for the owner's account, the owner shall be considered as the user of the merchandise.

(b) *Contracts required.—(1) Owner's contract.* An owner of merchandise who wishes to be considered a manufacturer pursuant to paragraph (a) of this section shall apply for a drawback contract under subpart B of this part. The proposal shall describe the agency arrangement and explain how the owner and agent together will comply with the drawback law and regulations.

(2) *Agent's contract.* Each agent operating under this section must have a drawback contract covering the articles manufactured.

SUBPART D—GENERAL DRAWBACK CONTRACTS

§ 191.41 Applicability.

A general drawback contract is designed to simplify drawback procedures for certain common manufacturing operations but does not preclude or limit the use of drawback proposals and specific drawback contracts.

§ 191.42 Procedures.

(a) Customs Headquarters shall from time to time prepare and publish in the "Customs Bulletin" an offer for a general drawback contract in situations where numerous manufacturers or producers have similar operations and wish to claim drawback.

(b) Any manufacturer or producer who can comply with the terms and conditions of the published offer for a general drawback contract may adhere to it by notifying a regional commissioner in writing of its acceptance and providing him with the following information:

(1) Name and address of adherent;

(2) Factories which will operate under the contract;

(3) If a corporation, the names of officers or persons with power of attorney who will sign drawback documents on behalf of the adherent.

§ 191.43 Acknowledgement.

The regional commissioner shall acknowledge in writing the receipt of the letter of acceptance of the manufacturer or producer of an offer for a general drawback contract. The general drawback contract for that manufacturer or producer shall be effective for a period of 15 years from the date of the letter of acknowledgement.

§ 191.44 Termination or renewal.

A general drawback contract shall terminate 15 years from the date of the letter of acknowledgement unless, prior to the expiration of the 15-year period, the manufacturer or producer requests the applicable regional commissioner to renew the contract for another 15-year period. A manufacturer or producer may terminate its contract at any time.

§ 191.45 Payment.

Drawback will be paid on articles manufactured or produced and exported in accordance with the law, regulations, and general drawback contract.

SUBPART E—EVIDENCE OF EXPORTATION

§ 191.51 Alternative procedures.

Exportation of articles for drawback purposes shall be established by complying with one of the following procedures:

(a) Notice of Exportation, § 191.52;

(b) Exporter's summary, § 191.53;

(c) Certified notice of exportation for mail shipments, § 191.54;

(d) Notice of lading for supplies on certain vessels or aircraft, § 191.53, or

(e) Notice of transfer for articles manufactured or produced in United States which are transferred to a foreign trade zone, § 191.163.

§ 191.52 Notice of exportation.

(a) *Filing.* A drawback claimant may support the drawback claim with a notice of exportation on Customs Form 7511 for each shipment of merchandise covered by the claim.

(b) *Contents.* The notice of exportation shall show the:

(1) Name of exporting vessel or other carrier;

(2) Number and kinds of packages and their marks and numbers;

(3) Description of the merchandise, including its weight (gross and net), gauge, measure, or number;

(4) Name of the exporter; and

(5) Country of ultimate destination.

(c) *Documentary evidence of exportation.*

(1) *Notice of exportation certified by Customs at the time of exportation.* The exporter-claimant shall file simultaneously with the appropriate Customs officer, Customs Form 7511 and the shipper's export declaration or the ocean/airway export bill of lading. The Customs officer shall review both forms and determine whether the information contained therein is accurate. Upon receipt of the outbound manifest, the Customs officer shall compare that document with Customs Form 7511 to verify the facts of exportation. Upon compliance with this procedure, the Customs officer shall certify Customs Form 7511, and return the certified copy and one uncertified copy of this document to the exporter-claimant.

(2) *Uncertified notice of exportation.* An uncertified notice of exportation shall be supported by documentary evidence of exportation, such as the bill of lading, air waybill, freight waybill, Canadian Customs manifest, cargo manifest, or certified copies thereof, issued by the exporting carrier. Supporting documentary evidence shall establish fully the time and fact of exportation and the identity of the exporter.

(d) *Numbering.* Prior to filing a notice of exportation with the drawback entry, the claimant shall assign to the notice a number which shall be stamped or endorsed on the original and each copy of the notice. The number assigned shall correspond to that of the supporting document, such as the bill of lading, air waybill, or cargo manifest, filed with the notice of exportation. If the supporting document covers more than one notice of exportation, the claimant shall assign to each notice the same number, but, each notice shall be further identified by an alphabetic designation beginning with the letter "A". It shall give a different alphabetic designation to each notice having the same number. If the supporting document has no number, it shall number consecutively each notice of exportation.

§ 191.53 Exporter's summary.

(a) *Eligibility.* This procedure shall be available to improve administrative efficiency.

(b) *Application.* The exporter-claimant shall request permission to use this procedure with the regional commissioner where the drawback claim will be filed, unless in cases of merchandise the subject of same condition drawback, the regional commissioner has delegated authority to approve requests to a district director. In that circumstance, the request shall be made with the district director.

(c) *Approval.* The regional commissioner, or the district director, if applicable in the case of merchandise the subject of same condition drawback, shall grant permission to use this procedure if he concludes that its use would contribute to administrative efficiency, and the exporter-claimant is not delinquent or otherwise remiss in his transactions with Customs.

(d) *Bond.* The exporter-claimant shall furnish a drawback export bond on Customs Form 7613, or shall designate rider "K" on General Term Bond, Customs Form 7595, in an amount equal to 25 percent of the drawback to be claimed on entries filed by him during the term of the bond.

(e) *Documentary evidence.*—(1) *Records.* The exporter-claimant shall maintain complete and accurate records of exportation, including the identity and location of the ultimate consignee of the exported articles. The exporter shall retain these records for at least 3 years after payment of such claims.

(2) *Additional evidence.* The exporter-claimant shall support the drawback entry with a chronological summary of the exports and any additional evidence required by Customs officers to establish fully the identity of the exported articles and the fact of exportation. In the case where the exporter-claimant uses this procedure for merchandise the subject of same condition drawback, he shall show also that the merchandise was exported in the same condition as when imported.

(3) *Format of chronological summary.* The chronological summary of the exports shall be in a format acceptable to the regional commissioner with whom drawback claims are filed and shall contain substantially the data provided for in the following sample format:

Chronological Summary of Exports

Drawback entry No. ———————.

Exporter/claimant ————————————————.

Period from ——————— to ———————.

Date of export	Exporting carrier	Freight or air waybill, bill of lading, manifest No. etc.[1]	Marks and numbers	Description	Net quantity	Schedule B No.	Destination
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

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[1] This number is to be used to associate the claim with exportation evidence retained by claimant.

§ 191.54 Certified notice of exportation by mail.

(a)(1) *Procedure.* If the merchandise on which drawback is to be claimed is exported by mail or parcel post, the exporter or his agent shall complete a notice of exportation on Customs Form 7511 in triplicate and file it with the postmaster at the place of mailing. The merchandise shall be delivered to the postmaster at the same time and mailed under his supervision.

(2) *Certification.* After the package is mailed, the postmaster shall certify one copy of the notice of exportation and return this copy and one uncertified copy to the exporter or his agent for subsequent filing with the drawback entry. The postmaster shall retain one copy as his record of the transaction.

(b) *Waiver of withdrawal.* A waiver of the right to withdraw a package from the mail shall be stamped or written on each package for export, signed by the exporter.

§ 191.55 Exportation by the Government.

(a) *Claim by U.S. Government.* When a department, branch, or agency of the United States Government exports products with the intention of claiming drawback, it may establish the exportation in the manner provided in §§ 191.52 or 191.53. No bond shall be required when the United States Government claims drawback.

(b) *Claim by supplier.* When a supplier of merchandise to the Government or any of the parties specified in section 191.73(b) of this part claims drawback, exportation shall be established under §§ 191.52 and 191.53.

§ 191.56 Amendment of evidence of exportation.

At any time within the 3-year period prescribed for the completion of the drawback claim, the exporter or its agent may amend a notice of exportation or exporter's summary, provided the regional commissioner is satisfied that the amendment is complete and correct. A written request for amendment with supporting evidence shall be submitted to the regional commissioner where the drawback entry is filed.

§ 191.57 Examination of the merchandise.

The district director may examine any merchandise to be exported with drawback for any reason deemed appropriate.

SUBPART F—COMPLETION OF DRAWBACK CLAIMS

§ 191.61 Time for filing.

A drawback entry and all documents necessary to complete a drawback claim, including those issued by one Customs officer to another, shall be filed or applied for, as applicable, within 3 years after the date of exportation of the articles on which drawback is claimed, except that any landing certificate required under section

191.67(d) of this part shall be filed within the time limit prescribed therein. Claims not completed within the 3-year period shall be considered abandoned. No extension will be granted unless it is established that a Customs officer was responsible for the untimely filing.

§ 191.62 Filing procedure.

(a) *Entry and certificate of manufacture.*—(1) *Customs Form 7575.* Except as provided in paragraph (a)(2) of this section, the drawback claimant shall file with the appropriate district director the drawback entry and certificate of manufacture in duplicate on Customs Form 7575-A, if claiming under 19 U.S.C. 1313(a) or Customs Form 7575-B, if claiming under 19 U.S.C. 1313(b). The district director may require an additional copy for administrative use.

(2) *Customs Form 7573.* The drawback claimant shall file with the appropriate district director the original drawback entry on Customs Form 7573 in the two instances listed below. The district director may require an additional copy for administrative use.

(i) *Certificates of manufacture filed prior to entry.* When the drawback claimant files a certificate of manufacture prior to the filing of the entry, it shall file the entry on Customs Form 7573 and refer to the certificates of manufacture in the entry by the official number instead of describing the particulars of importation and manufacture.

(ii) *Purchase of manufactured articles for exportation.* A purchaser of a completely manufactured article who exports it and claims drawback shall file an entry on Customs Form 7573 accompanied by a certificate of manufacture and delivery on Customs Form 7577, if that certificate is not already on file.

(3) *Filing in two or more regions.* If the drawback entry is filed in a region other than where the certificate of manufacture is on file, the regional commissioner with whom the certificate is on file, after liquidation and at the request of the person filing the certificate or to whom such merchandise was delivered, shall transmit to the regional commissioner where the entry is filed an extract on Customs Form 4537. The extract shall be considered an original certificate for liquidation purposes.

(4) *Two or more shipments.* One entry may cover several shipments.

(b) *Evidence of exportation.*—(1) *Notice of exportation.* When the entry covers exports under § 191.52(c)(2) of this part, the claimant shall file with the entry one copy of the notice of exportation and the original or a certified copy of the supporting document. For an entry under §§ 191.52(c)(1) and 191.54, the claimant shall file with the entry one copy of the notice of exportation.

(2) *Evidence of right to drawback.* The notice of exportation shall show that the merchandise was shipped by the person filing the drawback entry, or shall be endorsed by the person in whose name

e merchandise was shipped showing that the person filing the ntry is authorized to claim drawback and receive payment.

(3) *Chronological summary of exports.* For exports under § 191.53 this part, the claimant shall file with the entry one copy of the ronological summary of exports.

(c) *Multiple claimants.*—(1) *Notice of Exportation.* Where more an one party claims drawback (e.g., a chemical manufactured nder drawback regulations is exported in a container also manu- ctured under drawback regulations), each drawback claimant hall file a separate notice of exportation describing the component roduct to which its claim will relate. Each notice shall show the ame of the claimant and bear a statement that the claim shall be mited to its respective component product. The exporter shall en- orse the notices, as required, to show the respective interests of e claimants. The notice of exportation shall be numbered in ac- ordance with § 191.52(d) of this part.

(2) *Exporter's summary procedure.* Where more than one party laims the drawback (e.g., a chemical manufactured under draw- ack regulations is exported in a container also manufactured nder drawback regulations), and the parties elect to use the ex- orter's summary procedure, each drawback claimant shall com- lete and file a chronological summary of exports for the respective omponent product to which its claim will relate. Each claimant hall identify in the chronological summary the name of the other laimant or claimants and the component product for which each ill claim drawback independently.

(d) *Vessels or aircraft.* For drawback under section 313(g), Tariff ct of 1930, as amended (19 U.S.C. 1313(g)), the claimant shall file ith the drawback entry a copy of the part of the construction con- ract showing that the vessel or aircraft was built for foreign ac- ount and ownership. In the case of a vessel, except a warship, the laimant also shall file a certificate of clearance for a foreign port nd a certified copy of the registry certificate or, in its place, a cer- ificate of the consul of the foreign nation to which the vessel be- ongs, showing that the vessel has been documented under the flag f that country. No certificates of clearance or foreign documenta- ion shall be required for a warship.

191.63 Summary of papers filed.

The claimant may file with the drawback entry a summary, in uplicate, of the papers filed showing the date of application for of- icial documents. When verified, one copy of the summary shall be eceipted and returned to the claimant, and the other copy at- ached to the drawback entry.

191.64 Supplemental filing.

With the permission of the regional commissioner, a claimant nay amend or correct a drawback entry or file a timely supplemental entry. Corrections or amendments permitted shall be certified by the appropriate parties.

§ 191.65 Certificates of delivery.

(a) *When required.* If the merchandise used in the manufacture of the exported articles was not imported by the manufacturer of the articles, no drawback shall be allowed until the drawback claimant files with the regional commissioner where the claim is to be liquidated a certificate of delivery in duplicate on Customs Form 7543, or official evidence of the existence of the certificate filed at another place. The certificate of delivery must describe the merchandise delivered, tracing it from the custody of the importer to the custody of the manufacturer. If the certificate of delivery covers only one importation, the manufacturer may refer to it in its certificate of manufacture rather than describe the importation.

(b) *Intermediate transfer.* If the merchandise was not delivered directly from the importer to the manufacturer, each intermediate transfer shall be described on the certificate of delivery certified by the person through whose possession the merchandise passed.

(c) *Consignee as importer.* When the consignee named in an entry summary declares another person to be the actual owner, the consignee shall be considered the importer for drawback purposes, even though the consignee files an owner's declaration under section 485(d), Tariff Act of 1930, as amended (19 U.S.C. 1485(d)). The drawback claimant shall file a certificate of delivery showing the initial transfer from the consignee to the person to whom delivery was made.

(d) *Warehouse transfers and withdrawals.* The person in whose name merchandise is withdrawn from a bonded warehouse shall be considered the importer for drawback purposes. No certificate of delivery is required covering prior transfers of merchandise while in a bonded warehouse.

§ 191.66 Certificate of manufacture and delivery.

(a) *When required.* If the imported merchandise has undergone some process of manufacture before delivery, and the wholly or partially manufactured article thereafter is used in the manufacture of some other article for exportation, or when completely manufactured articles are purchased for exportation without further manipulation, the drawback claimant, whether the manufacturer or the exporter, shall file a certificate of manufacture and delivery on Customs Form 7577.

(b) *Subcontractors.* (1) If a subcontractor performs work, which for drawback purposes does not constitute a manufacture or production, with the use of merchandise the principal plans to make the subject of a drawback claim, and (2) if there is a problem in identifying the merchandise the subcontractor returns to the principal from the merchandise received from the principal, the subcontractor shall complete a certificate of manufacture and delivery.

total estimated duties deposited, the party responsible for the payment of liquidated duties, as applicable, shall be liable for 1 percent of all increased duties found to be due on that portion of merchandise recorded on the drawback entry or shall be entitled to a refund of 1 percent of all excess duties found to be paid on that portion of the merchandise recorded on the drawback entry.

(c) *Claims based on liquidated duties.* Drawback shall be based on the final liquidated duties paid that have been made final by the importer's written acceptance of the liquidation or by operation of law.

(d) *Liquidation procedure.* When the drawback claim has been completed by the filing of the entry and other necessary documents, and exportation of the articles has been established, the regional commissioner shall determine drawback due on the basis of the complete drawback claim and the drawback contract.

(e) *Distribution and value for multiple products.*—(1) *Distribution.* Where two or more products result from the manufacture or production of merchandise, drawback shall be distributed to the several products in accordance with their relative values at the time of separation.

(2) *Value.* The values to be used in computing the distribution of drawback where two or more products result from the manufacture and production of merchandise under drawback conditions shall be the market values unless another value is approved by Customs.

(f) *Payment.* The regional commissioner shall certify the amount of drawback due to the person making entry or other person authorized to receive payment under § 191.73 of this subpart.

§ 191.72 Accelerated payment.

(a) *Eligibility.* A drawback claimant not delinquent or otherwise remiss in transactions with Customs is eligible for accelerated payment of drawback on claims which are properly prepared and fully completed in accordance with either Subpart F or N of this part.

(b) *Submission with request.* A claimant who requests accelerated payment of a claim shall file with the claim a computation of the amount due, and, for approval by the regional commissioner, a bond on either Customs Form 7609 or 7611, guaranteeing the refund of any excess payment as provided in section 113.13a of this chapter. In place of filing Customs Form 7609 or 7611, a claimant may provide appropriate coverage by executing the approved rider "P" on a General Term Bond for Entry of Merchandise, Customs Form 7595, at the time of filing Customs Form 7595. Rider "P", whether submitted to the district director with Customs Form 7595 initially or added to that bond later, shall be approved by the regional commissioner. When a rider is to be designated on Customs Form 7595, the amount of the bond shall be increased by the estimated amount of accelerated drawback to be claimed during the term of the bond. If outstanding unliquidated accelerated drawback

If there is no problem of identification, the subcontractor shall complete only a certificate of delivery. If complementary records are maintained by a subcontractor's principal (see section 191.22(d)), and Customs determines no problems of identification exist, it may waive the filing of certificates of delivery and manufacture for transfers between principal and subcontractor, whether the subcontractor's operation involves manufacture or not.

(c) *Identifying certificates of manufacture and delivery.* Drawback claimants may identify the relevant certificates of manufacture and delivery on drawback entries covering the exported articles rather than describe the importation and manufacture.

(d) *Certification of intermediate transfer.* Any intermediate transfer of manufactured articles shall be certified on the certificate of manufacture and delivery.

(e) *Entry filed at place other than where certificate filed.* If the drawback entry is filed at a place other than where the certificate of manufacture and delivery is on file, the regional commissioner may transmit to the place where the drawback entry is filed an extract on Customs Form 4537.

(f) *Special requirements for agency transactions.*—(1) *Requirement of agent.* Each agent manufacturer who conducts operations under § 191.34 of this part shall furnish the principal for whom it processed merchandise a certificate of manufacture and delivery on Customs Form 7577 completing only the portion applicable to the operation so conducted, relating to the substituted or designated merchandise, and identifying the owner of the articles for whom processing was conducted.

(2) *Requirement of principal.* The principal for whom processing was conducted under section 191.34 of this part shall complete and file a certificate of manufacture or drawback entry, as appropriate, and attach to it the certificates from its agent or agents.

§ 191.67 Landing certificates.

(a) *When required.* A landing certificate shall be required:

(1) Whenever the district director at the port of exportation or the port where the drawback entry is filed, or the regional commissioner for the region where the drawback claim is liquidated, has reason to believe that the shipment is not a bona fide exportation;

(2) When Customs Headquarters specifically directs that the landing certificate be produced;

(3) When law or regulation otherwise requires a landing certificate; or

(4) For every aircraft which departs from the United States under its own power if drawback is claimed on the aircraft or any part thereof. A landing certificate for aircraft shall show the exact time of landing in the foreign country and describe the aircraft or parts thereof on which drawback is claimed in sufficient detail to enable Customs officers to identify them with the documentation

used to establish exportation, such as the notice of exportation, bill of lading, air waybill, or other approved documentation.

(b) *Time of filing.* Any required landing certificate shall be furnished prior to the liquidation of the entry.

(c) *Signature.* Any required landing certificate shall be signed by a revenue officer of the foreign country to which the merchandise is exported, unless it is shown that the country has no Customs administration, in which case the landing certificate may be signed by the consignee or the carrier's agent at the place of unlading.

(d) *Notice of requirement.* Customs shall provide notice in writing to an exporter or its agent required to supply a landing certificate pursuant to paragraphs (a)(1) or (a)(2) of this section. The exporter or its agent shall file the landing certificate within 1 year from the date of the notice unless Customs Headquarters grants an extension.

(e) *Inability to produce landing certificates.* (1) When a landing certificate is required and cannot be produced, an application for its waiver may be made to the regional commissioner through the district director within the time required for filing the certificate, accompanied by such evidence of clearance and landing abroad as may be available. The application shall be granted if the regional commissioner is satisfied by the evidence submitted that the merchandise has been exported. If the regional commissioner is not so satisfied, he shall transmit the application and its accompanying evidence to Headquarters, U.S. Customs Service, for final determination.

(2) *Required by the district director.* When a landing certificate is required by a district director under paragraph (a)(1) of this section, he may accept other satisfactory evidence of foreign landing in place of the certificate.

SUBPART G—PAYMENT AND LIQUIDATION OF DRAWBACK CLAIMS

§ 191.71 Liquidation.

(a) *Time of liquidation.* Drawback claims may be liquidated after:

(1) Final liquidation of the import entry; or

(2) Deposit of estimated duties on the imported merchandise and before liquidation of the import entry.

(b) *Claims based on estimated duties.*—(1) *Eligibility.* Drawback may be paid on estimated duties if the import entry has not been liquidated and the drawback claimant and any other party responsible for the payment of liquidated import duties each files a written request for payment of each drawback entry, waiving any right to payment or refund under other provisions of law.

(2) *Adjustment.*—(i) *Drawback entry.* A drawback claim, once liquidated on the basis of estimated duties, thereafter shall not be adjusted by reason of a subsequent liquidation of an import entry.

(ii) *Import entry.* However, if final liquidation of the import entry discloses that the total amount of import duty is different from the claims exceed the estimated amount of accelerated drawback, the regional commissioner shall require additional bond coverage.

(c) *Approval.* A regional commissioner who approves the claim for accelerated payment shall certify it for payment within 3 weeks after filing. After liquidation, the regional commissioner shall certify payment of any amount due or demand a refund of any excess amount paid.

(d) *Repeated erroneous computation of drawback claims.* Accelerated payment will be denied to claimants who repeatedly file claims in excess of the amount due.

§ 191.73 Person entitled to receive drawback.

(a) *Exporter; reservation by manufacturer or producer.* The person named as exporter on the notice of exportation or in bill of lading, air waybill, freight waybill, Canadian Customs manifest, cargo manifest, or certified copies of these documents, shall be deemed to be the exporter and entitled to drawback, unless the manufacturer or producer shall reserve the right to claim drawback. The manufacturer or producer who reserves this right may claim drawback, and he shall receive payment upon production of satisfactory evidence that the reservation was made with the knowledge and consent of the exporter.

(b) *Agent or person designated to receive drawback.* Drawback may be paid to the agent of the manufacturer, producer, or exporter, or to the person the manufacturer, producer, exporter, or agent directs in writing to receive drawback payment.

SUBPART H—INTERNAL-REVENUE TAX ON FLAVORING EXTRACTS AND MEDICINAL OR TOILET PREPARATIONS (INCLUDING PERFUMERY) MANUFACTURED FROM DOMESTIC TAX PAID ALCOHOL

§ 191.81 Drawback allowance.

(a) *Drawback.* Section 313(d), Tariff Act of 1930, as amended (19 U.S.C. 1313(d)), provides for drawback of internal-revenue tax upon the exportation of flavoring extracts and medicinal or toilet preparations (including perfumery) manufactured or produced in the United States in part from the domestic tax-paid alcohol (see § 191.4(a)(4)).

(b) *Shipment to Puerto Rico, the Virgin Islands, Guam, and American Samoa.* Drawback of internal-revenue tax on articles manufactured or produced under this subpart and shipped to Puerto Rico, the Virgin Islands, Guam, or American Samoa shall be allowed in accordance with section 7653(c) of the Internal Revenue Code (26 U.S.C. 7653(c)). However, there is no authority of law for the allowance of drawback of internal-revenue tax on flavoring extracts or medicinal or toilet preparations (including perfumery) manufactured or produced in the United States and shipped to Wake Island, Midway Islands, Kingman Reef, Canton Island, Enderbury Island, Johnston Island, or Palmyra Island.

191.82 Procedure.

(a) *General.* Other provisions of this part relating to direct identiication drawback shall apply to claims for drawback filed under his subpart insofar as applicable to and not inconsistent with the rovisions of this subpart.

(b) *Manufacturing record.* The manfacturer of flavoring extracts r medicinal or toilet preparations on which drawback is claimed hall record the products manufactured, the quantity of waste, if ny, and a full description of the alcohol. These records shall be vailable at all times for inspection by Customs officers.

(c) *Additional information required on the manufacturer's proposl.* The manufacturer's proposal shall state the quantity of domesic tax-paid alcohol contained in each product on which drawback s claimed.

(d) *Variance in alcohol content.*—(1) *Variance of more than 5 perent.* If the percentage of alcohol contained in a medicinal preparaion, flavoring extract, or toilet preparation varies by more than 5 ercent from the percentage of alcohol in the total volume of the xported product as stated in a previously approved proposal, the nanufacturer shall apply for a new drawback contract pursuant to ection 191.25 of this part. If the variation differs from a previously iled schedule, the manufacturer shall file a new schedule incorpoating the change.

(2) *Variance of 5 percent or less.* Variances of 5 percent or less of he volume of the product shall be reported to the regional commisioner where the drawback entries are liquidated. The regional ommissioner may allow drawback without specific authorization rom Customs Headquarters.

(e) *Customs forms.* The following Customs forms shall be used in lace of the corresponding forms used in the case of articles manuactured with the use of imported merchandise:

(1) Drawback Entry for Tax-Paid Alcohol, Customs Form 7579.

(2) Certificate of Manufacture and Delivery, Customs Form 7585.

(3) Certificate of Delivery of Alcohol Tax-Paid, Customs Form 545.

(f) *Time period for completing claims.* The 3-year period for the ompletion of drawback claims prescribed in § 191.61 of this part hall be applicable to claims for drawback under this subpart.

(g) *Filing of drawback entries on duty-paid imported merchandise nd tax-paid alcohol.* When the drawback entry covers duty-paid mported merchandise in addition to tax-paid alcohol, the claimant hall file one set of entries for drawback of Customs duty and anther set for drawback of internal-revenue tax.

(h) *Description of the alcohol.* The description of the alcohol tated in the entry may be obtained from the description on the ackage containing the tax-paid alcohol.

§ 191.83 Additional requirements.

(a) *Manufacturer claims domestic drawback.* In the case of medi inal preparations and flavoring extracts, the claimant shall fi with the drawback entry, or endorse on the entry or certificate manufacture, a declaration of the manufacturer showing whether claim has been or will be filed by the manufacturer with the r gional regulatory administrator of the Bureau of Alcohol, Tobac and Firearms for domestic drawback on alcohol under sectio 5131, 5132, 5133, and 5134, Internal Revenue Code, as amended (U.S.C. 5131, 5132, 5133, and 5134).

(b) *Manufacturer does not claim domestic drawback.*—(1) *Submi sion of statement.* If no claim has been or will be filed with th Bureau of Alcohol, Tobacco and Firearms for domestic drawback o medicinal preparations or flavoring extracts, the manufactur shall submit a statement, in duplicate, setting forth that fact to th appropriate regional regulatory administrator of the Bureau of A cohol, Tobacco and Firearms for the region in which the manufa turer's factory is located.

(2) *Contents of the statement.* The statement shall show the:

(i) Quantity and description of the exported products;

(ii) Identity of the alcohol used by serial number of package tank car;

(iii) Name and registry number of the warehouse from which th alcohol was withdrawn;

(iv) Date of withdrawal;

(v) Serial number of the tax-paid stamp or certificate, if any; ar

(vi) Customs region where the drawback claim will be filed.

(3) *Verification of the statement.* The regional regulatory admi istrator, Bureau of Alcohol, Tobacco and Firearms, shall verify r ceipt of this statement, forward the original of the document to th Customs region designated, and retain the copy.

§ 191.84 Alcohol, Tobacco and Firearms certificates.

(a) *Request.* The drawback claimant or manufacturer shall file written request with the regional regulatory administrator, Burea of Alcohol, Tobacco and Firearms, in whose region the alcohol use in the manufacture was withdrawn requesting him to provide th regional commissioner of Customs, with whom the drawback clai will be processed, a tax-paid certificate on Alcohol, Tobacco ar Firearms Form 5100.4 (Certificate of Tax-Paid Alcohol).

(b) *Contents.* The request shall state the:

(1) Quantity of alcohol in taxable gallons;

(2) Serial number of each package;

(3) Serial number of the stamp, if any;

(4) Amount of tax paid on the alcohol;

(5) Name, registry number, and location of the warehouse;

(6) Date of withdrawal;

(7) Name of the manufacturer using the alcohol in producing the exported articles;

(8) Address of the manufacturer and his manufacturing plant; and

(9) Customs region where the drawback claim will be processed.

(c) *Request accompanied by Customs Form 7545.* If the request is accompanied by Customs Form 7545 showing any of the information required by paragraph (b) of this section, that information need not be repeated in the request.

(d) *Extracts of Alcohol, Tobacco and Firearms certificates.* If a certification of any portion of the alcohol described in the Bureau of Alcohol, Tobacco and Firearms Form 5100.4 is required for liquidation of drawback entries processed in another region, the regional commissioner of Customs, on written application of the person who requested its issuance, shall transmit a copy of the extract from the certificate for use at that regional office. The regional commissioner shall note that the copy of the extract was prepared and transmitted.

§ 191.85 Liquidation.

The regional commissioner shall determine the amount of drawback due by reference to the certificate of manufacture and the drawback contract under which the drawback claimed is allowable.

§ 191.86 Amount of drawback.

(a) *Claim filed with Bureau of Alcohol, Tobacco and Firearms.* If the declaration required by § 191.83 of this part shows that a claim has been or will be filed with the Bureau of Alcohol, Tobacco and Firearms for domestic drawback, drawback under section 313(d), Tariff Act of 1930, as amended (19 U.S.C. 1313(d)), shall be limited to the difference between the amount of tax paid and the amount of domestic drawback claimed.

(b) *Claim not filed with Bureau of Alcohol, Tobacco and Firearms.* If the declaration and verified statement required by § 191.83 show that no claim has been or will be filed by the manufacturer with the Bureau of Alcohol, Tobacco and Firearms for domestic drawback, the drawback shall be the full amount of the tax on the alcohol used.

(c) *No deduction of 1 percent.* No deduction of 1 percent shall be made in drawback claims under section 313(d), Tariff Act of 1930, as amended (19 U.S.C. 1313(d)).

(d) *Payment.* The drawback due shall be paid in accordance with § 191.71(f) of this part.

SUBPART I—SUPPLIES FOR CERTAIN VESSELS AND AIRCRAFT

§ 191.91 Drawback allowance.

Section 309, Tariff Act of 1930, as amended (19 U.S.C. 1309), provides for drawback on articles laden as supplies on certain vessels or aircraft of the United States or as supplies including equipment upon, or used in the maintenance or repair of, certain foreign vessels or aircraft (see § 191.4(a)(10)).

§ 191.92 Procedure.

(a) *General.* Other provisions of this part apply to claims filed under this subpart insofar as applicable and not inconsistent with the provisions of this subpart.

(b) *Customs forms.* Drawback notices of lading on Customs Form 7514 shall be filed in place of notices of exportation on Customs Form 7511 or other evidence of exportation (see § 191.93).

§ 191.93 Drawback notice of lading.

(a) *Number of copies and place of filing.* The notice of lading on Customs Form 7514 shall be filed in quadruplicate with the district director at the port of lading.

(b) *Time of filing.* The drawback notice of lading may be filed before or after lading of the articles. If filed after lading, the notice shall be filed within 3 years after exportation of the articles.

(c) *Contents of notice.* The notice of lading shall show:

(1) Name of the vessel or identity of the aircraft on which articles were or are to be laden;

(2) Number and kind of packages and their marks and numbers;

(3) Description of the articles and their weight (net), gauge, measure, or number;

(4) Name of the exporter; and

(5) Customs region where the drawback entry is to be filed.

(d) *Assignment of numbers and return of one copy.* The district director shall assign a number to each notice of lading and return one copy to the exporter for delivery to the master or authorized officer of the vessel or aircraft.

(e) *Declaration.*—(1) *Requirement.* The master or an authorized officer of the vessel or aircraft, or a representative of the owner or operator of the vessel or aircraft having knowledge of the facts and holding a Customs power of attorney shall complete the section of the drawback notice entitled "Declaration of Master or Other Officer," which was delivered by the exporter.

(2) *Procedure if notice filed before lading.* If the notice is filed before lading of the articles, the declaration must be completed on the copy of the numbered drawback notice that was filed with the district director and returned to the exporter for this purpose.

(3) *Procedure if notice filed after lading.* If the drawback notice is filed after lading of the articles, the drawback claimant may file a separate document containing the declaration required on the Drawback Notice, Customs Form 7514.

(4) *Filing.* The drawback claimant shall file with the district director both the drawback entry and the drawback notice or separate document containing the declaration of the master or other officer or representative.

(f) *Information concerning class or trade.* Information about the lass of business or trade of a vessel or aircraft is required to be urnished in support of the drawback entry if the vessel or aircraft s American.

(g) *Vessel or aircraft required to clear or obtain a permit to proeed.* After the vessel or aircraft has cleared or obtained a permit o proceed, the district director at the port of lading shall complete he section entitled "Customs Certification" on one of the copies of he notice of lading. He shall return the completed copy and one ther copy to the exporter or the person designated by the exporter or subsequent filing with the drawback entry.

(h) *Vessel or aircraft not required to clear or obtain a permit to roceed.* If the vessel or aircraft is not required to clear or obtain a ermit to proceed to another port, the district director shall return o the exporter or the person designated by the exporter two copies f the notice with a statement of the facts in this case for subseuent filing with the drawback entry. The drawback claimant shall ile with its claim an itinerary of the vessel or aircraft for the immediate voyage or flight showing that the vessel or aircraft is enaged in a class of business or trade which makes it eligible for rawback.

(i) *Articles laden or installed on aircraft as equipment or used in he maintenance or repair of aircraft.* The regional commissioner where the drawback claim is filed shall require a declaration or ther evidence showing to his satisfaction that articles have been aden or installed or aircraft as equipment or used in the maintenance or repair of aircraft.

(j) *Fuel laden on vessels or aircraft as supplies.*—(1) *Composite otice of lading.* In the case of fuel laden on vessels or aircraft as upplies, the drawback claimant may file with the regional commissioner a composite notice of lading on the reverse of Customs Form 7514, for each calendar month describing all of the drawback claimant's deliveries of fuel supplies during the one calendar month at a single port or airport to all vessels or airplanes of one vessel owner or operator or airline.

(2) *Contents of composite notice.* The composite notice shall show or each voyage or flight, either on the reverse of Customs Form 7514 or on a continuation sheet:

(i) Identity of the vessel or aircraft;

(ii) Description of the fuel supplies laden;

(iii) Quantity laden; and

(iv) Date of lading.

(3) *Declaratoin of owner or operator.* A vessel or airline representative having knowledge of the facts and holding a Customs power f attorney shall complete the section "Declaration of Master or Other Officer" on Customs Form 7514.

(4) *District Director's certification.* The district director shall note the clearance of the vessel or aircraft at the end of each line relating to a voyage or flight.

(k) *Desire to land articles covered by notice of lading.* The master of the vessel or commander of the aircraft desiring to land in the United States articles covered by a notice of lading shall apply for a permit to land those articles under Customs supervision. All articles landed, except those transferred under the original notice of lading to another vessel or aircraft entitled to drawback, shall be considered imported merchandise for the purpose of section 309(c), Tariff Act of 1930, as amended (19 U.S.C. 1309(c)).

§ 191.94 Drawback entry.

The drawback entry shall be filed on Customs Form 7573 or 7575, as applicable, modified to read "lade" (or "use"), "laden" (or "used"), or "lading" (or "using") instead of "export," "exported," or "exporting." The "Declaration of Exportation" shall be amended to read as follows:

DECLARATION OF LADING OR USE

I, ——————— (member of firm, officer representing corporation, agent, or attorney) of ——————— declare that according to my knowledge and belief, the particulars of lading (or use) stated in this entry, the notices of lading, and receipts are correct, and that the merchandise is not to be relanded in the United States or any of its possessions, but is to be (has been) used on the vessels or aircraft so named for (state specifically, such as supplies, equipment, maintenance, or repair) ———————, as specified in section 309, Traffic Act of 1930, as amended.

Date: ——————— 19——.

(Shipper or agent)

(Sec. 309, 46 Stat. 690, as amended; 19 U.S.C. 1309)

SUBPART J—MEATS CURED WITH IMPORTED SALT

§ 191.101 Drawback allowance.

Section 313(f), Tariff Act of 1930, as amended (19 U.S.C. 1313(f)), provides for the allowance of drawback upon the exportation of meals cured with imported salt (see § 191.4(a)(6)).

§ 191.102 Procedure.

(a) *General.* Other provisions of this part relating to direct identification drawback shall apply to claims for drawback under this subpart insofar as applicable to and not inconsistent with the provisions of this subpart.

(b) *Customs form.* The forms used for other drawback claims shall be used and modified to show that the claim is being made for refund of duties paid on salt used in curing meats.

§191.103 Refund of duties.

Drawback shall be refunded in aggregate amounts of not less than $100 and shall not be subject to the retention of 1 percent of duties paid.

SUBPART K—MATERIALS FOR CONSTRUCTION AND EQUIPMENT OF VESSELS AND AIRCRAFT BUILT FOR FOREIGN ACCOUNT AND OWNERSHIP

§191.111 Drawback allowance.

Section 313(g), Tariff Act of 1930, as amended (19 U.S.C. 1313(g)), provides for drawback on imported materials used in the construction and equipment of vessels and aircraft built for foreign account and ownership, or for the government of any foreign country, notwithstanding that these vessels or aircraft may not be exported within the strict meaning of the term (see § 191.4(a)(7)).

§191.112 Procedure.

Other provisions of this part relating to direct identification drawback shall apply to claims for drawback filed under this subpart insofar as applicable to and not inconsistent with the provisions of this subpart.

191.113 Explanation of terms.

(a) *Materials.* Section 313(g), Tariff Act of 1930, as amended (19 J.S.C. 1313(g)), applies only to materials used in the original contruction and equipment of vessels and aircraft and not to materils used for alteration or repair, or to materials not required for afe operation of the vessel or aircraft.

(b) *Foreign account and ownership.* Foreign account and ownerhip, as used in section 313(g), Tariff Act of 1930, as amended, neans only vessels or aircraft built and equipped for the account of n owner or owners residing in a foreign country and having a ona fide intention that the vessel or aircraft, when completed, hall be owned and operated under the flag of a foreign country.

SUBPART L—FOREIGN-BUILT JET AIRCRAFT ENGINES PROCESSED IN THE UNITED STATES

191.121 Drawback allowance.

Section 313(h), Tariff Act of 1930, as amended (19 U.S.C. 1313(h)), rovides for drawback on the exportation of jet aircraft engines anufactured or produced abroad that have been overhauled, reaired, rebuilt, or reconditioned in the United States with the use imported merchandise, including parts (see § 191.4(a)(8)).

191.122 Procedure.

Other provisions of this part shall apply to claims for drawback ed under this subpart insofar as applicable to and not inconsistt with the provisions of this subpart.

§ 191.123 Drawback entry.

(a) *Filing of entry.* Drawback entries covering these foreign-built jet aircraft engines shall be filed on Customs Form 7575–A, appropriately modified, to show that the entry covers jet aircraft engines processed under section 313(h), Tariff Act of 1930, as amended.

(b) *Contents of entry.* The entry shall show the country in which each engine was manufactured and describe the processing performed thereon in the United States.

§ 191.124 Refund of duties.

Drawback shall be refunded in aggregate amounts of not less than $100, and shall not be subject to the deduction of 1 percent of duties paid.

SUBPART M—MERCHANDISE EXPORTED FROM CONTINUOUS CUSTOMS CUSTODY

§ 191.131 Drawback allowance.

(a) *General.* Section 557(a), Tariff Act of 1930, as amended (19 U.S.C. 1557(a)), provides for drawback on the exportation, or the shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or Guam, of merchandise upon which duties have been paid which has remained continuously in bonded warehouse or otherwise in Customs custody since importation (see § 191.4(a)(11)).

(Sec. 557, 46 Stat. 744, as amended; 19 U.S.C. 1557)

(b) *Guantanamo Bay.* Guantanamo Bay Naval Station shall be considered foreign territory for drawback purposes under this subpart. However, imported merchandise which has remained continuously in bonded warehouse or otherwise in Customs custody since importation is not entitled to drawback of duty when shipped to Puerto Rico, Canton Island, Enderbury Island, or Palmyra Island.

§ 191.132 Merchandise released from Customs custody.

No remission, refund, abatement, or drawback of duty shall be allowed because of the exportation of any merchandise after its release from Government custody, except in the following cases:

(a) When articles are exported on which drawback is expressly provided for by law;

(b) When prohibited articles have been regularly entered in good faith and are subsequently exported or destroyed pursuant to statute and regulations prescribed by the Secretary of the Treasury; or

(c) When articles entered under bond are destroyed within the bonded period, as provided in section 557(c), Tariff Act of 1930, as amended (19 U.S.C. 1557(c)), or destroyed within the bonded period by death, accidental fire, or other casualty, and proof of destruction is furnished to the satisfaction of the Secretary of the Treasury, in which case any accrued duties shall be remitted or refunded and any condition in the bond that the articles shall be exported shall be deemed to have been satisfied (see 19 U.S.C. 1558).

§ 191.133 Continuous Customs custody.

(a) *Merchandise released under an importer's bond and returned.* Merchandise released to an importer under a bond prescribed by § 142.4 of this chapter and later returned to the public stores upon requisition of the district director shall not be deemed to be in the continous custody of Customs officers.

(b) *Merchandise released under a temporary importation bond.* Merchandise released under a temporary importation bond as provided for in Schedule 8, Part 5, Subpart C, Tariff Schedules of the United States (19 U.S.C. 1202), shall not be deemed to be in the continous custody of Customs officers.

(c) *Merchandise released from warehouse.* For purpose of this part, in the case of merchandise entered for warehouse, Customs custody shall be deemed to cease when duty has been paid and the district director has authorized the withdrawal of the merchandise.

(d) *Merchandise not warehoused, examined elsewhere than in public stores.*—(1) General rule. Except as stated in paragraph (d)(2) of this section, merchandise examined elsewhere than at the public stores, in accordance with the provisions of § 151.7 of this chapter, shall be considered released from Customs custody upon completion of final examination for appraisement.

(2) *Merchandise upon the wharf.* Merchandise which remains on the wharf by permission of the district director shall be considered to be in Customs custody, but this custody shall be deemed to cease when the Customs officer in charge accepts the permit and has no other duties to perform relating to the merchandise, such as measuring, weighing or gauging.

(Sec. 557, 46 Stat. 744, as amended, 19 U.S.C. 1557)

§ 191.134 Filing the entry.

(a) *Direct export.* At least 6 hours before lading the merchandise on which drawback is claimed, the importer or the agent designated by him in writing shall file with the district director a direct export entry on Customs Form 7512 in duplicate.

(b) *Merchandise transported to another port for exportation.* The importer of merchandise to be transported to another port for exportation shall file in triplicate with the district director an entry naming the transporting conveyance, route, and port of exit. The district director shall certify one copy and forward it to the district director at the port of exit. A bonded carrier shall transport the merchandise in accordance with the applicable regulations. Manifests shall be prepared and filed in the manner prescribed in § 144.37 of this chapter.

§ 191.135 Merchandise withdrawn from warehouse for exportation.

The regulations in Part 18 of this chapter concerning the supervision of lading and certification of exportation of merchandise withdrawn from warehouse for exportation without payment of duty shall be followed to the extent applicable.

§ 191.136 Bill of lading.

(a) *Filing.* In order to complete the claim, a bill of lading covering the merchandise described in the export entry shall be filed within 2 years after the merchandise is exported.

(b) *Contents.* The bill of lading shall show either that the merchandise was shipped by the person making the claim or bear an endorsement of the person in whose name the merchandise was shipped showing that the person making claim is authorized to receive the drawback.

(c) *Limitation of the bill of lading.* The terms of the bill of lading may limit and define its use by stating that it is for Customs purposes only and not negotiable.

(d) *Inability to produce bill of lading.* When a required bill of lading cannot be produced, the person making the drawback entry may request the regional commissioner, through the district director, within the time required for the filing of the bill of lading, to accept a statement setting forth the cause of failure to produce the bill of lading and such evidence of exportation and of its right to make the drawback entry as may be available. The request shall be granted if the regional commissioner is satisfied by the evidence submitted that the failure to produce the bill of lading is justified, that the merchandise has been exported, and that the person making the drawback entry has the right to do so. If the regional commissioner is not so satisfied, he shall transmit the request and its accompanying evidence to Headquarters, U.S. Customs Service, for final determination.

(e) *Extracts of bills of lading.* Regional commissioners may issue extracts from bills of lading filed with drawback entries.

§ 191.137 Landing certificates.

When required, a landing certificate shall be filed within the time prescribed in § 191.67 of this part.

(Sec. 557, 48 Stat. 744, as amended, 19 U.S.C. 1557)

§ 191.138 Procedures.

When the drawback entry has been completed and the bill of lading filed, together with the landing certificate, if required, the reports of inspection and lading made, and the clearance of the exporting conveyance established by the record of clearance in the case of direct exportation or by certificate in the case of transportation and exportation, the regional commissioner shall verify the importation by referring to the import records to ascertain the amount of duty paid on the merchandise exported. To the extent appropriate and not inconsistent with the provisions of this subpart, drawback claims shall be liquidated in accordance with the provisions of §§ 191.61 and 191.71 of this part.

§ 191.139 Amount of drawback.

Drawback due under this subpart shall not be subject to the retention of 1 percent.

(Sec. 557, 46 Stat. 744, as amended; 19 U.S.C. 1557)

SUBPART N—SAME CONDITION AND REJECTED MERCHANDISE DRAWBACK

§ 191.141 Same Condition Drawback.

(a) *General Provisions.*

(1) *Allowance.* Section 313(j), Tariff Act of 1930, as amended (19 U.S.C. 1313(j)), provides for drawback on imported merchandise exported in the same condition as when imported, or destroyed under Customs supervision and not used within the United States before such exportation or destruction (see § 191.4(a)(9)).

(2) *Time of exportation or destruction.* Drawback shall be allowed on imported merchandise if exported or destroyed under subparagraph (1) of this section before the close of the 3-year period beginning on the date of importation.

(3) *Use.* The performing of incidental operations (including, but not limited to, testing, cleaning, repacking, and inspecting) on the imported merchandise itself, not amounting to manufacture or production for drawback purposes shall not be treated as a use of that merchandise for purposes of applying subparagraph (1) of this section.

(b) *Filing and documentation prior to exportation.*

(1) *Filing.* An exporter-claimant who desires to export merchandise with drawback under 19 U.S.C. 1313(j) shall file with the regional commissioner, or the district (area) director, or port director, if authority has been delegated to that official by the regional commissioner, a completed Customs Form 7539. The exporter-claimant also shall furnish a copy of the import entry or identify the import entry, date of entry, and port of entry under which the merchandise was imported into the United States. It shall certify that the merchandise is in the same condition as when imported and not used within the United States before such exportation. Transfers shall be documented by certificates of delivery (see section 191.65).

(2)(i) *Time of filing.* The completed Customs Form 7539 shall be filed with the regional commissioner or district (area) director, or port director, if authority has been delegated to that official by the regional commissioner, at least 5 working days prior to the date of intended exportation of the merchandise, unless the Customs officer approves a shorter filing period.

(ii) *Waiver of prior notice of intent to export.* A request for a waiver of prior notice by an exporter-claimant shall be in writing to the regional commissioner, or the district (area) director or port director, if authority has been delegated to that official by the regional commissioner. The appropriate Customs officer may waive prior notice at any time for any exporter-claimant. An exporter-claimant shall be granted this waiver after filing with the appropriate Customs official six consecutive claims free of substantial error, provided that such exporter-claimant has operated under the same condition program for a minimum of six months. An exporter-claimant who repeatedly files inaccurate claims may have the privilege (of filing without prior notice) revoked. Customs will so notify the exporter-claimant in writing of the revocation as soon as possible.

(3) *Examination.*

(i) *Decision to examine.* Within 3 working days after Customs Form 7539 is filed, the exporter-claimant shall be notified whether Customs will examine the merchandise. If the exporter-claimant is not notified within the 3-day period, the exporter-claimant shall export the merchandise without delay.

(ii) *Time and place of examination.* If the appropriate Customs officer determines to examine the merchandise, he shall notify the exporter-claimant of the time and place of the examination. The examination shall be completed within 5 working days after the filing of Customs Form 7539, unless failure to examine during this period is caused by the exporter-claimant. If the examination is completed at a port other than the port of intended exportation, the exporter-claimant shall transport the merchandise in-bond to the port of exportation.

(iii) *Extent of examination.* The appropriate Customs officer may permit release of merchandise without examination, or may examine routinely (to the extent he determined necessary) items exported, provided such examinations do no exceed 10 percent of the total items exported (i.e., merchandise in one of ten claims could be examined). If the Customs officer believes it is necessary to examine more than 10 percent of the exported items, he shall present the reasons to Headquarters and obtain approval for such other examination.

(c) *Completion of drawback entry for exported merchandise.* Within 3 years after exportation of merchandise under section 191.141(b), an exporter-claimant shall complete his drawback claim by filing with the same Customs officer who received Customs Form 7539 evidence of exportation under the procedures described in section 191.52 (notice of exportation) or section 191.54 (certified notice of exportation by mail) of this part.

(d) *Alternative procedure for exported merchandise.* In place of the procedures set forth in sections 191.141(b) and (c), an exporter-claimant may apply with the regional commissioner, or the district (area) director, if authority has been delegated to that official by the regional commissioner, for permission to use the exporter's summary procedure (see section 191.53). If the request is approved, the exporter-claimant shall complete a drawback claim no later than 3 years after exportation. When this alternative procedure is used, no prior notice of intent to export or examination is necessary for purposes of obtaining drawback.

(e) *General.* The provisions relating to direct identification drawback shall apply to claims for drawback under this subpart insofar as applicable to and not inconsistent with the provisions of this subpart. Specifically, sections 191.22(b) and (c), and 191.65 are applicable to drawback under 19 U.S.C. 1313(j).

(f) *Drawback on destroyed merchandise.*

(1) *Procedure.* A claimant desiring to destroy merchandise to collect drawback under same condition drawback shall file with the regional commissioner, or the district (area) director or port director, if authority has been delegated to that official by the regional commissioner, a completed Customs Form 7539. At least 7 working days prior to the intended date of destruction, the exporter-claimant shall notify the appropriate Customs officer of the time and place of destruction, by submitting Customs Form 3499 with Customs Form 7539 at the location wherein the destruction is to occur. It shall certify that the merchandise is in the same condition as when imported and not used within the United States before such destruction. Destruction of merchandise after such notification on Customs Form 3499 shall be deemed to have occurred under Customs supervision.

(2) *Completion of drawback entry.* After destruction, the claimant and district director or his designee who witnessed destruction shall certify on Customs Form 7539 or an attachment thereto the time and place of destruction.

(g) *Liquidation of the drawback claim.*

(1) Entries shall be liquidated or reliquidated in the region or districts as determined by the regional commissioner.

(2) Upon review of a drawback claim by the liquidator, if the claim is determined to be incomplete, the liquidator shall notify promptly the claimant, who shall then have the opportunity to amend the claim prior to its denial. The claimant shall respond in writing within 20 days of Customs notice.

(3) If the claim is denied, the claimant shall be notified in accordance with sections 159.9 and 159.10 of this chapter.

§ 191.142 Merchandise not conforming to sample or specifications or shipped without the consent of the consignee.

(a) *General.*

(1) Section 313(c), Tariff Act of 1930, as amended (19 U.S.C. 1313(c)), provides for drawback upon the exportation of imported merchandise not conforming to sample or specifications or shipped without the consent of the consignee. The merchandise must be re-

turned to Customs custody for exportation within 90 days after release from Customs custody unless Customs authorizes a longer period (see section 191.4(a)(3)).

(2) Rejected merchandise may be the subject of a same condition drawback claim in accordance with sections 191.141(a)–(f).

(b) *Procedure.*

(1) The exporter-claimant shall file with any district director a drawback entry on Customs Form 7539 at the time the merchandise is returned to Customs custody.

(2) The exporter-claimant also shall submit documentation to establish that the merchandise does not conform to sample or specifications or was shipped without the consent of the consignee.

(3) The district director shall approve the place of delivery of the merchandise if he is satisfied that the merchandise does not conform to sample or specifications or was shipped without the consent of the consignee.

(4) The exporter-claimant shall return the merchandise to Customs custody within 90 days after the date the merchandise was originally released from Customs custody unless an extension of time is specifically authorized in writing by the district director or other appropriate Customs official. A reasonable extension of time will be granted if the failure to comply with the 90 day provision is beyond the control of the applicant. Drawback shall be denied on merchandise returned to Customs custody after the authorized time period, including any extension.

(5) The exporter-claimant shall export the merchandise under Customs supervision and shall provide proof of exportation by filing with the same district director who received the Customs Form 7539 a notice of exportation certified by a Customs officer under section 191.52(c)(1), or otherwise supported by those documents set out in section 191.52(c)(2) except that if a bill of lading is submitted proving exportation, no notice of exportation shall be required. The exporter-claimant also may establish exportation by mail as set out in section 191.154.

(6) Drawback under this section is payable to the exporter-claimant who is the importer of record or the actual owner named in the import entry. The procedures for liquidating a drawback claim shall be the same as under section 191.141(g).

SUBPART O—DISTILLED SPIRITS, WINES, OR BEERS WHICH ARE UNMERCHANTABLE OR DO NOT CONFORM TO SAMPLE OR SPECIFICATIONS

§ 191.151 Refund of taxes.

Section 5062(c), Internal Revenue Code, as amended (26 U.S.C. 5062(c)), provides for the refund, emission, abatement or credit to the importer of internal-revenue taxes paid or determined incident to importation, upon the exportation, or destruction under Customs supervision, of imported distilled spirits, wines, or beer found after entry to be unmerchantable or not to conform to sample or specifications and which are returned to Customs custody (see § 191.4(b)).

§191.152 Procedure.

The export procedures shall be the same as that provided in section 191.142(b) except that the claimant must be the importer and as otherwise provided in this subpart.

§191.153 Documentation.

(a) *Entry.* Customs Form 7539, appropriately modified, shall be used to claim drawback under this subpart.

(b) *Documentation.* The drawback entry for unmerchantable merchandise shall be accompanied by a certificate of the importer setting forth in detail the facts which cause the merchandise to be unmerchantable and any additional proof that the district director requires to establish that the merchandise is unmerchantable.

§191.154 Return to Customs custody.

There is no time limit for the return to Customs custody of distilled spirits, wine, or beer subject to refund of taxes under the provisions of this subpart. .

§191.155 No exportation by mail.

Merchandise covered by this subpart shall not be exported by mail.

§191.156 Destruction of merchandise.

(a) *Action by the importer.* A drawback claimant who proposes to destroy rather than export the distilled spirits, wine, or beer shall state that fact on Customs Form 7539.

(b) *Action by Customs.* Distilled spirits, wine, or beer returned to Customs custody at the place approved by the district director where the drawback entry was filed shall be destroyed under the supervision of the Customs officer who shall certify the destruction on Customs Form 3499.

§191.157 Liquidation.

No deduction of 1 percent of the internal revenue taxes paid or determined shall be made in allowing claims under section 5062(c), Internal Revenue Code, as amended (26 U.S.C. 5062(c)).

§191.158 Time limit for exportation or destruction.

Merchandise not exported or destroyed within 90 days from the date of notification of acceptance of the drawback entry shall be considered unclaimed, unless upon written request by the importer, the district director grants an extension of not more than 90 days.

SUBPART P—MERCHANDISE TRANSFERRED TO A FOREIGN TRADE ZONE FROM CUSTOMS TERRITORY

§ 191.161 Drawback allowance.

The fourth provision of section 3 of the Foreign Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81c) provides for drawback on merchandise transferred to a foreign trade zone from Customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage, provided there is compliance with the regulations of this subpart (see § 191.4(a)(12)).

§ 191.162 Zone-restricted merchandise.

Merchandise in a foreign trade zone for the purposes specified in § 191.161 shall be given status as zone-restricted merchandise on proper application (see § 146.25 of this chapter).

(Sec. 3, 48 Stat. 999, as amended; 19 U.S.C. 81c)

§ 191.163 Articles manufactured or produced in the United States.

(a) *Procedure for filing documents.* Except for the evidence of exportation procedure, the drawback procedures prescribed in this part shall be followed as applicable to drawback under this subpart on articles manufactured or produced in the United States with the use of imported or substituted merchandise, and on flavoring extracts or medicinal or toilet preparations (including perfumery) manufactured or produced with the use of domestic tax-paid alcohol.

(b) *Notice of transfer.*—(1) *Proof of export.* The notice of zone transfer on Customs Form 7514 shall be in place of the documents under subpart E to establish the exportation.

(2) *Filing procedures.* The notice of transfer, in triplicate, shall be filed with the district director where the foreign trade zone is located prior to the transfer of the articles to the zone, or within 3 years after the transfer of the articles to the zone. A notice filed after the transfer shall state the foreign trade zone lot number.

(3) *Contents of notice.* Each notice of transfer shall show the:

(i) Number and location of the foreign trade zone;

(ii) Number and kind of packages and their marks and numbers;

(iii) Description of the articles, including weight (gross and net), gauge, measure, or number;

(iv) Name of the transferor; and

(v) Place where the drawback entry is to be filed.

(c) *Action of the district director on the notice of transfer.*—*(1) Assignment of number.* The district director shall assign a number to each notice of transfer, return one copy to the transferor and forward another copy to the Customs officer at the foreign trade zone.

(2) *Certification and forwarding notice to transferor.* After articles have been received in the zone, the Customs officer in charge at the zone shall certify on a copy of the notice of transfer the receipt of the articles and forward the notice to the transferor or the person designated by the transferor.

(d) *Foreign trade zone operator's certificate.* Before filing the certified copy of the notice of transfer with the drawback entry, the transferor shall obtain the foreign trade zone operator's certification of receipt of the articles in the zone (see § 191.164(d)(2)).

(e) *Drawback entries.* Drawback entries shall be filed on Customs Form 7573, 7575, 7579, or 7585, as applicable, appropriately modified, to indicate that the merchandise was transferred to a foreign trade zone. The "Declaration of Exportation" shall be modified as follows:

Declaration of Transfer to a Foreign Trade Zone

I, ——————————— (member of firm, officer representing corporation, agent, or attorney), of ———————, declare that, to the best of my knowledge and belief the particulars of transfer stated in this entry, the notices of transfer, and receipts are correct, and that the merchandise was transferred to a foreign trade zone for the sole purpose of exportation, destruction, or storage, not to be returned to the customs territory of the United States for domestic consumption.

Dated: ——————.

Transferor or agent. ———————————.

(Sec. 3, 48 Stat. 999, as amended, 19 U.S.C. 81c)

§ 191.164 Merchandise transferred from continuous Customs custody.

(a) *Procedure for filing claims.* The procedure described in Subpart M of this part shall be followed as applicable, to drawback on merchandise transferred to a foreign trade zone from continuous Customs custody.

(b) *Drawback entry.* Prior to the transfer of merchandise from continuous Customs custody to a foreign trade zone, the importer or a person designated in writing by the importer for that purpose shall file with the district director a direct export entry on Customs Form 7512 in duplicate. The district director shall forward one copy of Customs Form 7512 to the Customs officer in charge at the zone.

(c) *Certification by Customs and zone operator.* After the merchandise has been received in the zone, the Customs officer in charge at the zone shall certify on the copy of Customs Form 7512 the receipt of the merchandise and forward the form to the transferor or the person designated by the transferor to obtain the foreign trade zone operator's certification. After obtaining and executing the certifications provided for in paragraph (d) of this section, the transferor shall resubmit Customs Form 7512 to the district director in place of the bill of lading required by § 191.136 of this part.

(d) *Modification of drawback entry.* (1) *Indication of transfer.* Customs Form 7512 shall be modified to indicate that the merchandise is to be transferred to a foreign trade zone.

(2) *Endorsement.* The transferor or person designated by the transferor shall endorse Customs Form 7512 as follows for execution by the foreign trade zone operator:

Certification of Foreign Trade Zone Operator

The merchandise described in the entry was received from ——— on ———, 19—; in Foreign Trade Zone No. —, ——— (City and State)

Exceptions: ———.———
(Name and title)
By ——— (Name of operator)

(3) *Transferor's declaration.* The transferor shall declare on Customs Form 7512 as follows:

Transferor's Declaration

I, ——— of the firm of ——— declare that the merchandise described in this entry was duly entered at the customhouse on arrival at this port; that the duties thereon have been paid as specified in this entry; and that it was transferred to Foreign Trade zone No. —, located at ———, (City and State) for the sole purpose of exportation, destruction, or storage, not to be returned to the customs territory of the United States for domestic consumption. I further declare that to the best of my knowledge and belief, this merchandise is the same in quantity, quality, value, and package, unavoidable wastage and damage excepted, as it was at the time of importation; that no allowance nor reduction of duties has been made for damage or other cause except as specified in this entry; and that no part of the duties paid has been refunded by drawback or otherwise.

Dated: ———.

(Transferer)

(Sec. 3, Stat. 999, as amended; 19 U.S.C. 81c)

§ 191.165 Same condition drawback merchandise and merchandise not conforming to sample or specifications or shipped without the consent of the consignee.

(a) *Procedure for filing claims.* The procedures described in § 191.141, relating to same condition drawback merchandise, and § 191.142 relating to rejected merchandise, shall be followed as applicable to drawback under this subpart for same condition drawback merchandise and merchandise not conforming to sample or specifications, or merchandise shipped without the consent of the consignee.

(b) *Drawback entry.* Before transfer of the merchandise to a foreign trade zone, the importer or a person designated in writing by the importer for the purpose shall file with the district director an entry on Customs Form 7539 in duplicate. The district director will forward one copy of Customs Form 7539 to the Customs officer in charge at the zone.

(c) *Certification by Customs and zone operator.* After the merchandise has been received in the zone the Customs officer in charge at the zone shall certify on the copy of Customs Form 7539 the receipt of the merchandise and forward the form to the transferor or the person designated by the transferor to obtain the foreign trade zone operator's certificate. After obtaining and executing the certifications provided for in paragraph (d) of this section, the transferor shall resubmit Customs Form 7539 to the district director, in place of the bill of lading required by § 191.136 of these regulations.

(d) *Modification of drawback entry.* (1) *Indication of transfer.* Customs Form 7539 shall be modified to indicate that the merchandise is to be transferred to a foreign trade zone.

(2) *Endorsement.* The transferor or person designated by the transferor shall endorse Customs Form 7539 as follows, for execution by the foreign trade zone operator:

Certification of Foreign Trade Zone Operator

The merchandise described in this entry was received from ——— on ———, 19——, in Foreign Trade Zone No. ——, ——— (City and State).

Exceptions: ———

——— (Name of operator)

By ——— (Name of title)

(3) *Transferor's declaration.* The transferor shall declare on Customs Form 7539 as follows:

Transferor's Declaration

I, ———, of the firm of ———, declare that the merchandise described in the within entry was duly entered at the customhouse on arrival at this port; that, the duties thereon have been paid as specified in this entry; and that it was transferred to Foreign Trade Zone No. ——, located at ———, (City and State) for the sole purpose of exportation, destruction, or storage, not to be returned to the customs territory of the United States for domestic consumption. I further declare that to the best of my knowledge and belief, that said merchandise is the same in quantity, quality, value, and package as specified in this entry; that no allowance nor reduction in duties paid has been made; and that no part of the duties has been refunded by drawback or otherwise

Dated: ———.

——— (Transferor)

(Sec. 3, 48 Stat. 999, as amended; 19 U.S.C. 81c)

§ 191.166 Person entitled to receive drawback.

The person named in the foreign trade zone operator's certification on the notice of transfer or the drawback entry, as applicable, shall be considered to be the transferor. Drawback shall be paid to the transferor or to the person to whom the transferor directs in writing to be paid.

(Sec. 3, 48 Stat 999, as amended; 19 U.S.C. 81c)

(R.S. 251, as amended, secs. 313, 624, 46 Stat. 693, as amended, 759, 77A Stat. 14; 5 U.S.C. 301, 19 U.S.C. 66, 1202 (Gen. Hdnt. 11), 1313, 1624))

(Approved by the Office of Management and Budget under control number 1515-0094.)

Conforming Amendments

PARTS 7, 10, 113, 145, and 158

To conform the Customs Regulations to the changes made by the removal of Part 22, Customs Regulations and the addition of new Part 191, Customs Regulations, Parts 7, 10, 113, 145, and 158 are amended in the following manner:

PART 7—CUSTOMS RELATIONS WITH INSULAR POSSESSIONS AND GUANTANAMO BAY NAVAL STATION

§ 7.1 [Amended]

1. 7.1(a), Customs Regulations is amended by substituting "§§ 191.85 and 191.86" in place of "§ 22.26" appearing at the end of the paragraph.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

§ 10.38 [Amended]

§ 10.38(f), Customs Regulations, is amended by substituting "§ 191.10" in place of "§ 22.43".

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 113—CUSTOMS BONDS

1. Subpart B—"Classes and Approval of Bonds" of the index to Part 113 is amended by adding after heading 113.13, a new heading 113.13a to read "Bonds approved by the regional commissioner."

2. Section 113.11(b), Customs Regulations, is amended by renumbering paragraph (b)(2) as (b)(3), and adding a new section (b)(2) to read as follows:

§ 113.11 Names and classes of bonds.

* * * * * * *

(b) * * *

(2) Those approved by the regional commissioner (see section 113.13a).

3. Part 113 is amended by adding a new section 113.13a to read as follows:

§ 113.13a Bonds approved by the regional commissioner.

The following bonds are subject, after execution, to approval by the regional commissioner:

(a) *Single entry bond, Customs Form 7609.* Bond for accelerated payment of Drawback (Single Entry), Customs Form 7609, in an amount equal to the amount of accelerated payment to be received on the entry covered.

(b) *Term bond, Customs Form 7611.* Bond for Accelerated Payment of Drawback (Term), Customs Form 7611, in an amount sufficient to cover the maximum amount of accelerated payment to be outstanding at any time during the period of the bond.

4. Sections 113.14(x)(1) and (x)(2), Customs Regulations, are removed and reserved.

5. Section 113.14(y), Customs Regulations, is amended by substituting "section 191.53" in place of "section 22.7".

6. Section 113.16 is amended by revising the section heading and first sentence to read as follows:

§113.16 Amount of bond approved by the regional commissioner or district director.

The amount of any Customs bond approved by the regional commissioner or district director shall not be less than $100, except when the law or regulation expressly provides that a lesser amount be taken. * * *

7. Section 113.18 is amended by revising the first sentence to read as follows:

§113.18 Retention of approved bonds.

All the bonds approved by the regional commissioner, described in section 113.13a, or by the district director, described in section 113.14, except the Bond of Claimant of Seized Goods for Costs of Court, Customs Form 4615, shall remain on file in their respective offices.

(R.S. 251, as amended, secs. 623, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 145—MAIL IMPORTATIONS

Section 145.72(e), Customs Regulations, is amended by substituting "section 191.142" in place of "22.33".

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 158—RELIEF FROM DUTIES ON MERCHANDISE LOST, DAMAGED, ABANDONED, OR EXPORTED

Section 158.45(b), Customs Regulations, is amended by substituting "Part 191" in place of "Part 22" at the end of the paragraph.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

Parallel Reference Table

[This table shows the relation of sections in revised Part 191 to Part 22]

Revised section	Superseded section
191.0	New.
191.1	New.
191.2	New.
191.3	22.41.
191.4	22.1.
191.5	22.46.
191.6	22.45.
191.7	22.44.
191.8	New.
191.9	New.
191.10(a), (b), (c), and (d)	22.43
191.10(e)	New.
191.11	22.42.
191.12	New.
191.13	22.2.
191.21(a)	New.
191.21(a)(1)	22.4(k).
191.21(a)(2)	New.
191.21(b)	22.4(h).
191.21(c)	New.
191.21(d)	22.4(h).
191.21(e)	22.4(i).
191.22(a)(1)(i)(ii)(iii)(iv)	22.4(a).
191.22(a)(1)(v)	22.4(b).
191.22(a)(2), (3), (4), and (5)(i)	22.4(a).
191.22(a)(5)(ii)	New.
191.22(b)	22.4(b) and (c).
191.22(c)	22.4(f).
191.22(d)	22.4(e).
191.22(e)	22.4(d).
191.23(a) and (b)	22.4(j).
191.23(c)	22.4(l).
191.23(d)	22.4(m).
191.24	22.4(p).
191.25	22.4(o).
191.26	22.4(r).
191.31	New.
191.32(a)(1), (2), (3)	22.5(a).
191.32(a)(4)	22.4(b).
191.32(b)	22.5(b).
191.32(c)	22.5(e).
191.32(d)	22.5(c).
191.32(e)	New.
191.33	New.
191.34	New.
191.41	New.
191.42	New.
191.43	New.
191.44	New.
191.45	New.
191.51(a), (b), and (c)	22.7(a).
191.51(d)	New.
191.51(e)	New.
191.52(a), (b), and (c)	22.7(b), (c)(1).
191.52(d)	22.7(c)(2).
191.53(a)	22.7(d)(1).
191.53(b), (c), (d), and (e)(1)	22.7(d)(2).
191.53(e)(2)	22.7(d)(1).

PARALLEL REFERENCE TABLE—Continued

[This table shows the relation of sections in revised Part 191 to Part 22]

Revised section	Superseded section
191.53(e)(3)	22.7(d)(3).
191.54(a)	22.8(a), (c).
191.54(b)	22.8(b).
191.55(a) and (b)	22.9(a).
191.56	22.11.
191.57	22.12.
191.61	22.13(a).
191.62(a)(1)	22.13(a).
191.62(a)(2)	22.13(a), (c), and (e).
191.62(a)(3)	22.13(d).
191.62(a)(4)	22.13(a).
191.62(b)	22.13(a).
191.62(c)	New.
191.62(d)	22.13(f).
191.63	22.13(b).
191.64	22.13(g).
191.65	22.15.
191.66(a)	22.16(a).
191.66(b)	New.
191.66(c)	22.16(b).
191.66(d)	22.16(c).
191.66(e)	22.16(d).
191.66(f)	New.
191.67(a)	22.17(a).
191.67(b)	22.13(b).
191.67(c)	22.17(b).
191.67(d)	22.17(c).
191.67(e)(1)	22.17(e).
191.67(e)(2)	22.17(d).
191.71(a)	22.20(a).
191.71(b)	22.20(b).
191.71(c)	22.20(c).
191.71(d)	22.20(d).
191.71(e)	22.20(e).
191.71(f)	22.20(f).
191.72	22.20a.
191.73(a)	22.21(a).
191.73(b)	22.21(b).
191.81(a)	22.22(a).
191.81(b)	22.22(b).
191.82(a)	22.23(a).
191.82(b)	22.24.
191.82(c)	22.23(b).
191.82(d)	22.23(f).
191.82(e)	22.23(d).
191.82(f)	22.23(a).
191.82(g)	22.23(c).
191.82(h)	22.24.
191.83	22.23(e).
191.84(a)	22.25(a).
191.84(b)	22.25(b).
191.84(c)	22.25(c).
191.84(d)	22.25(d).
191.84(e)	22.25(e).
191.85	22.26(a).
191.86(a) and (b)	22.26(b).
191.86(c)	22.26(d).
191.86(d)	22.26(c).
191.91	22.18(a).
191.92	22.18(b).

PARALLEL REFERENCE TABLE—Continued

[This table shows the relation of sections in revised Part 191 to Part 22]

Revised section	Superseded section
191.93(a), (b), (c), (d), and (e)	22.18(c).
191.93(f)	22.18(h).
191.93(g) and (h)	22.18(d).
191.93(i) and (j)	22.18(j).
191.93(k)	22.18(g).
191.94	22.18(k).
191.101	New.
191.102(a)	22.19(a).
191.102(b)	22.19(b).
191.103	22.19(a).
191.111	New.
191.112	New.
191.113	New.
191.121	22.26e(a).
191.122	New.
191.123(a) and (b)	22.26a(b).
191.124	22.26a(a) and a(c).
191.131	22.27(a) and 22.27(b).
191.132	22.28(a).
191.133(a) and (b)	22.28(b).
191.133(c)	22.28(d).
191.133(d)(1)	22.28(e).
191.133(d)(2)	22.28(c).
191.134(a)	22.29(a).
191.134(b)	22.29(b).
191.135	22.29(c).
191.136(a), (b), and (c)	22.29(d).
191.136(d)	22.29(g).
191.136(e)	22.29(f).
191.137	22.29(h).
191.138	22.30(a) and (b).
191.139	22.30(a).
191.141	New.
191.142	22.31–22.35.
191.151	New.
191.152	New.
191.153	New.
191.154	New.
191.155	New.
191.156	New.
191.157	New.
191.158	New.
191.161	22.36(a).
191.162	22.36(b).
191.163(a)	22.37(a).
191.163(b)(1)	22.37(a).
191.163(b)(2)	22.37(b) and (c).
191.163(b)(3)	22.37(b).
191.163(c) and (d)	22.37(d).
191.163(e)	22.37(e).
191.164(a), (b), and (c)	22.38(a).
191.164(d)	22.38(b).
191.165(a), (b), and (c)	22.39(a).
191.165(d)	22.39(b).
191.166	22.40.

PARALLEL REFERENCE TABLE

[This table shows the relationship of sections in Part 22 to revised Part 191]

Old section	New section
	191.0.
	191.1.
	191.2.
22.1	191.4.
22.2	191.13.
22.3	Deleted. 191.21(a) and (a)(2)
22.4(a)	191.22(a)(1) (i)–(iv); 191.22(a)(2)–(5)(i). 191.22(a)(5)(1).
22.4(b)	191.22(a)(1)(v); 191.22(b); 191.32(a)(4).
22.4(c)	191.22(b).
22.4(d)	191.22(e).
22.4(e)	191.22(d).
22.4(f)	191.22(c).
22.4(g)	Deleted.
22.4(h)	191.21(b), (d), 191.21(c).
22.4(i)	191.21(e).
22.4(j)	191.23(a), (b).
22.4(k)	191.21(a)(1), 191.21(a)(2).
22.4(l)	191.23(c).
22.4(m)	191.23(d).
22.4(n)	Deleted.
22.4(o)	191.25.
22.4(p)	191.24.
22.4(q)	Deleted.
22.4(r)	191.26.
	191.31.
22.5(a)	191.32(a) (1)–(3).
22.5(b)	191.32(b).
22.5(c)	191.32(d)–(e).
22.5(d)	Deleted.
22.5(e)	191.32(c), 191.33, 191.34.
22.6(a)–(g)	Deleted.
22.6(g-1)	Deleted.
22.6(h) and (j)	Deleted.
22.7(a)	191.51(a)–(c), 191.51(d) and (e).
22.7(b)	Deleted.
22.7(c)(1) (b)	191.52(a)–(c).
22.7(c)(2)	191.52(d).
22.7(d)(1)	191.53(a), (e)(2).
22.7(d)(2)	191.53(b)–(d); (e)(1).
22.7(d)(3)	191.53(e)(3).
22.8(a)–(c)	191.54(a)–(b).
22.9(a)	191.55(a)–(b).
22.9(b)	Deleted.
22.10	Deleted.
22.11	191.56.
22.12	191.57.
22.13(a)	191.61, 191.62(a)(1) and (2)(4); 191.62(b).
22.13(b)	191.63, 191.67(b).
22.13(c) and (e)	191.62(a)(2).
22.13(d)	191.62(a)(3). 191.62(c).
22.13(f)	191.62(d).
22.13(g)	191.64.
22.15	191.65.
22.16(a)	191.66(a). 191.66(b).
22.16(b)	191.66(c).
22.16(c)	191.66(d).
22.16(d)	191.66(e). 191.66(f).
22.17(a)	191.67(a).
22.17(b)	191.67(c).

PARALLEL REFERENCE TABLE—Continued

[This table shows the relationship of sections in Part 22 to revised Part 191]

Old section	New section
22.17(c)	191.67(d).
22.17(d)	191.67(e)(2).
22.17(e)	191.67(e)(1).
22.18(a)	191.91.
22.18(b)	191.92.
22.18(c)	191.93(a)-(e).
22.18(d)	191.93(g) and (h).
22.18(e)	Deleted.
22.18(g)	191.93(k).
22.18(h)	191.93(f).
22.18(j)	191.93(i) and (j).
22.18(k)	191.94. 191.101.
22.19(a)	191.102(a), 191.103.
22.19(b)	191.102(b), 191.111, 191.112, 191.113.
22.20(a)-(d)	191.71(a)-(d).
22.20(e)	191.71(e).
22.20(f)	191.71(f).
22.20a	191.72.
22.21(a)-(b)	191.73(a)-(b).
22.22(a) and (b)	191.81(a) and (b).
22.23(a)	191.82(a), (f).
22.23(b)	191.82(c).
22.23(c)	191.82(g).
22.23(d)	191.82(e).
22.23(e)	191.83.
22.23(f)	191.82(d).
22.24	191.82(b) and (h).
22.25(a)-(c) and (e)	191.84(a)-(d).
22.25(d)	Deleted.
22.26(a)	191.85.
22.26(b)	191.86(a) and (b).
22.26(c)	191.86(d).
22.26(d)	191.86(c).
22.26a(a)	191.121. 191.122.
22.26a(b)	191.123(a) and (b).
22.26a(a), a(c)	191.124.
22.27(a) and (b)	191.131.
22.28(a)	191.132.
22.28(b)	191.133(a) and (b).
22.28(c)	191.133(d)(2).
22.28(d)	191.133(c).
22.28(e)	191.133(d)(1).
22.29(a) and (b)	191.134(a) and (b).
22.29(c)	191.136.
22.29(d)	191.136(a)-(c).
22.29(c)	Deleted.
22.29(f)	191.136(e).
22.29(g)	191.136(d).
22.29(h)	191.137.
22.30(a) and (b)	191.138.
22.30(a)	191.139, 191.141.
22.31-22.35	191.142, 191.151-191.158.
22.36(a)	191.161.
22.36(b)	191.162.
22.37(a)	191.163(a).
22.37(a)	191.163(b)(1).
22.37(b), (c)	191.163(b)(2).
22.37(b)	191.163(b)(3).
22.37(d)	191.163(c) and (d).
22.37(e)	191.163(e).

PARALLEL REFERENCE TABLE—Continued

[This table shows the relationship of sections in Part 22 to revised Part 191]

Old section	New section
22.38(a)	191.164(a)-(c).
22.38(b)	191.164(d).
22.39(a)	191.165(a)-(c).
22.39(b)	191.165(d).
22.40	191.166.
22.41	191.3.
22.42	191.11, 191.12.
22.43	191.10(a)-(d). 191.10(e).
22.44	191.7, 191.8, 191.9.
22.45	191.6.
22.46	191.5, 191.41-191.45.

Analysis of Drawback Revision

We have reviewed the proposed revisions to drawback in order to assess the need to complete an economic impact analysis consistent with (a) the Regulatory Flexibility Act (RFA) or (b) Executive Order 12291. We conclude that the impact magnitude does not meet the criteria of the Executive Order as specified in Section 1 (b), and thus a regulatory impact analysis need not be initiated. And, in respect to the RFA, the proposal's impact will not reach a significant level. In fact, the proposal's major effects will focus on *simplifying procedures* in which the small operator applying for drawback benefits.

Drawback refers to the refund of import duties and taxes upon that merchandise's export. Numerous different kinds and types of drawback exist.

TABLE 1.—DRAWBACK PAID

[Millions of dollars]

Fiscal Year 1980	$177.9
Fiscal Year 1981	274.9
Fiscal Year 1982	261.6

TABLE 2.—1982 DRAWBACK PAID BY REGION

	1982 total (millions of dollars)	Dollars per entry filed
Total	$261.6	$7,200
North East	34.8	5,800
New York	62.6	4,200

TABLE 2.—1982 DRAWBACK PAID BY REGION—Continued

	1982 total (millions of dollars)	Dollars per entry filed
South East	26.5	15,300
South Central	37.5	38,400
South West	8.2	5,700
Pacific	35.8	5,800
North Central	56.2	11,400

TABLE 3.—TOTAL NUMBER OF DRAWBACK ENTRIES

[Thousands]

	Filed	Liquidated
Fiscal Year 1978	20.3	17.9
Fiscal Year 1979	21.2	21.5
Fiscal Year 1980	24.3	23.2
Fiscal Year 1981	29.1	26.7
Fiscal Year 1982	36.3	34.1

TABLE 4.—REGIONAL DRAWBACK ENTRIES FILED

	Fiscal year 1982	Fiscal year 1983 through April
North East	6,012	3,123
New York	15,012	8,639
South East	1,732	1,239
South Central	977	520
South West	1,429	1,021
Pacific	6,168	4,783
North Central	4,934	2,935
Total	36,264	22,260

However, the most frequently used types are (1) "direct identification" drawback (the export of merchandise comprised wholly or partly of the imported goods); (2) "substitution" drawback (use of domestic merchandise in an exported product, substituting for drawback refund purposes the domestic component for the same previously imported component); and (3) "same condition" drawback (export or destruction of merchandise within 3 years of its importation and without use within the U.S. during that period).

Scope of Drawback Facility

About 5,000 companies apply for drawback refunds yearly with the 100 largest of these groups accounting for most of the claims. Claims totaled $261.6 million in FY 1982 (see Table 1) with the greatest volume refunded in North East and North Central Regions (see Table 2). As the practice of drawback has become more widely known, the number of entries has expanded. over the last four fiscal years, drawback entries filed rose by nearly 80 percent to 36,000 (see Table 3). Customs processing has more than kept pace with this expansion with liquidations over the same period expanding by 91 percent. Again, New York was the largest region of filing, followed by North East and Pacific (see Table 4).

Principal Changes by the Revision

The proposed revisions result in greater operational simplification and clarification than at present, particularly for the most frequently used classes of drawback. In the few cases of substantive change, those changes have the practical effect of liberalizing prior requirements, with clear benefit to claimants.

For example, the proposed application procedure has been simplified with the elimination of CF 4477. Instead, Customs will publish and provide to potential claimants a series of sample drawback proposals. Also, drawback claims at present are subject to nearly 100 percent verification. Under the proposed revisions, an audit verification approach will be implemented, speeding up the claims process. In modifying an existing drawback contract, a claimant at present would have to submit a new application. Under the revisions, he will simply provide a supplemental statement to Customs, in effect revising the original contract. In another principal change regarding proof of export, at present the good's landing certificate is required to establish the fact of export. The revisions will provide greater flexibility to claimants by allowing the use of several other documents.

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19 CFR Parts 4, 148

(T.D. 83-213)

Customs Regulations Amendments Relating to Clearance of Personnel Arriving on Military Transports

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide that all persons entering the United States on carriers operated by or for the Department of Defense are required to execute written baggage declarations. This change eliminates the necessity

of the commanding officer of the carrier filing a declaration of dutiable articles acquired abroad by the officers and crewmembers of the carrier, brings the Customs Regulations into conformity with Department of Defense Regulations and tends to discourage the introduction of contraband and encourage the payment of Customs duties.

EFFECTIVE DATE: November 16, 1983.

FOR FURTHER INFORMATION CONTACT: Legal Aspects: James F. Bartley, Entry Procedures and Penalties Division (202-566-5765); Operational Aspects: Daniel Holland, Office of Passenger Enforcement and Facilitation (202-566-5607); U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 148.73(a), Customs Regulations (19 CFR 148.73(a)), now provides that commissioned officers and enlisted personnel of the Armed Forces of the United States engaged in the operation of any Army or Navy transport, enlisted men carried as passenger, and civilian officers and crewmembers are not required to execute baggage declarations when they enter the United States. All articles acquired by these personnel must be listed on the manifest. A Department of Defense Regulation (DOD 5030.41-R, Chapter 4, paragraph 4003), however, provides that all personnel are required to execute written baggage declarations. To bring the Customs Regulations into conformity with the Department of Defense Regulations, by notice published in the Federal Register on December 1, 1982 (47 FR 54092), it was proposed to amend section 148.73 to require all persons, including crewmembers, entering the United States on carriers operated by or for the Department of Defense, to execute written baggage declarations. No comments were received in response to the notice. Accordingly, after further review of the matter, the changes proposed in that document are being adopted. The baggage declaration requirement for all persons also tends to discourage the introduction of contraband and encourage the payment of Customs duties.

Section 148.72, Customs Regulations (19 CFR 148.72), requires the commanding officer of any vessel operated by the United States or any agency to file a declaration of all dutiable articles acquired abroad by the officers and crewmembers of the vessel. Because the amendment to section 148.73(a) requires baggage declarations by each individual, section 148.72 is no longer necessary. Accordingly, it is being deleted.

Conforming amendments to section 4.5, Customs Regulations (19 CFR 4.5), relating to the arrival and entry of vessels owned by, or under the complete control and management of, the United States or any of its agencies, are necessary to reflect these changes.

REGULATORY FLEXIBILITY ACT

It is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the amendments will not have a significant economic impact on a substantial number of small entities. The proposed amendments did not generate interest or attention through comments. The amendments will not have significant secondary or incidental effects on a substantial number of small entities; nor will they impose, or otherwise cause a significant increase in the reporting, recordkeeping or other compliance burdens on a substantial number of small entities.

EXECUTIVE ORDER 12291

Inasmuch as the amendments will not result in a "major rule" as defined in section 1(b) of E.O. 12291, a regulatory impact analysis is not required.

DRAFTING INFORMATION

The principal author of this document was Gerard J. O'Brien Jr., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

LIST OF SUBJECTS

19 CFR Part 4

Customs duties and inspection, Imports, Cargo vessels, Vessels, Reporting and recordkeeping requirements.

19 CFR Part 148

Customs duties and inspection, Imports, Armed Forces, Military personnel.

AMENDMENTS TO THE REGULATIONS

Parts 4 and 148, Customs Regulations (19 CFR Parts 4, 148), are amended as set forth below.

ALFRED R. DEANGELUS,
Acting Commissioner of Customs.

Approved: September 21, 1983.
JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, October 17, 1983 (48 FR 46978)]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

§ 4.5(a) is revised to read as follows:

§ 4.5 Government vessels.

(a) No report of arrival or entry shall be required of any vessel owned by, or under the complete control and management of, the

United States or any of its agencies, if such vessel (1) is mann wholly by members of the uniformed services of the United Stat by personnel in the civil service of the United States, or by bo and (2) is transporting only property of the United States or p sengers traveling on official business of the United States, or is ballast. However, if any cargo is on board, the master or comma er of each such vessel arriving from abroad shall file a Cargo D laration, Customs Form 1302, or an equivalent form issued by t Department of Defense, in duplicate. The original of each Ca Declaration or equivalent form required under this paragraph sh be filed with the district director within 48 hours after the arri of the vessel. The other copy shall be made available for use by t discharging inspector at the pier. See section 148.73 of this chap with respect to baggage on carriers operated by the Department Defense.

* * * * * * *

(R.S. 251, as amended, section 498, 46 Stat. 728, as amended, section 624, 46 S 759 (19 U.S.C. 66, 1498, 624).)

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

§ 148.72 [Removed and reserved]

1. Part 148 is amended by removing section 148.72 and by marking it "Reserved".

2. The section heading and paragraph (a) of § 148.73 is revised to read as follows:

§ 148.73 Baggage on carriers operated by the Department Defense.

(a) *Declaration.* All persons, including crewmembers, enter the United States on carriers operated by or for the Department Defense shall execute written baggage declarations.

* * * * * * *

(R.S. 251, as amended, section 498, 46 Stat. 728, as amended, section 624, 46 S 759 (19 U.S.C. 66, 1498, 624).)

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19 CFR Parts 4 and 10

(T.D. 83-214)

Custom Regulations Amendments Relating to the Vessel Documentation Act

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations clarify the documentation procedure for U.S. vessels engaged various trades and to define clearly the types of supplies and equipment for vessels which are exempt from the payment of Customs duties and internal revenue taxes. These conforming amendments, which are procedural and technical in nature, are necessary due to changes in the Vessel Documentation Act.

EFFECTIVE DATE: November 14, 1983.

FOR FURTHER INFORMATION CONTACT: Harold Singer, Carriers, Drawback and Bond Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to Pub. L. 96-594, the Vessel Documentation Act, ("the Act") the Coast Guard revised and simplified its regulations contained in Part 67 of Title 46, CFR, relating to vessel documentation. Federal documentation of vessels, a form of national licensing, is required for the operation of certain vessels in certain trades, serves as evidence of vessel nationality, and, with certain exceptions, permits vessels to be subject to preferred mortgages.

One of the responsibilities of Customs in connection with the arrival and entry of vessels is to ensure compliance with the Coast Guard documentation requirements. The new Coast Guard regulations were published as Coast Guard Decision 80-107 in the Federal Register on June 24, 1982 (47 FR 27490), to amend 46 CFR Parts 66, [illegible], and 69. The regulations revise terminology and simplify the requirements controlling vessel documentation, administrative procedures and paperwork without making substantive changes in the underlying requirements. The Act and the revised Coast Guard regulations became effective July 1, 1982.

This document amends Part 4, Customs Regulations (19 CFR Part 4), to clarify the documentation procedure for U.S. vessels engaged in various trades, and section 10.59, Customs Regulations (19 CFR 10.59), to define clearly the types of supplies and equipment for vessels which are exempt from Customs duties and internal revenue taxes. These conforming amendments, which are procedural and technical in nature, are necessary due to changes in the Act which was set forth as T.D. 82-138 on page 19 of the Customs Bulletin of August 11, 1982.

Specifically, several changes to the Customs Regulations are involved. One change in section 4.0(c), under the heading "General definitions", would be to revise the term "documented" from a vessel registered, enrolled and licensed, or licensed by the Coast Guard, to a vessel for which a valid Certificate of Documentation, form CG 1270, ("Certificate") issued by the Coast Guard, is outstanding. Upon a vessel's qualification and its owner's proper application to the appropriate Coast Guard office, a Certificate will be issued by the Coast Guard to certify licensing of that vessel for registry, coastwise trade, Great Lakes trade, the fisheries, or pleasure use.

Coast Guard Decision 80-107 contains information regarding each of these five trades for which a Certificate may be endorsed and the privileges acquired through such endorsements. This information is as follows:

A *registry endorsement* is available to a vessel to be employed in foreign trade; trade with Guam, American Samoa, Wake Island, Midway, or Kingman Reef; and in other employments for which a coastwise license or Great Lakes license or fishery license is not required (46 CFR 67.17-3).

A *coastwise license endorsement* entitles the vessel to employment in the coastwise trade, the fisheries, and in any other employment for which a registry or Great Lakes license is not required (46 CFR 67.17-5).

A *Great Lakes license endorsement* entitles the vessel to engage in the coastwise trade and the fisheries on the Great Lakes and their tributaries and connecting waters, in trade with Canada and in any other employment for which a registry, coastwise license, or a fishery license is not required (46 CFR 67.17-7).

Subject to federal and state laws regulating the fisheries, a *fishery license endorsement* authorizes the vessel to fish within the fishery conservation zone as defined in 16 U.S.C. 1811 and landward of that zone, and to land its catch, wherever caught, in the United States (46 CFR 67.17-9).

A *pleasure license* entitles a vessel to pleasure use only (46 CFR 67.17-11).

Generally, any vessel of at least 5 net tons and wholly owned by a United States citizen or citizens is eligible for documentation. However, a vessel must also be built in the United States to qualify for a coastwise, Great Lakes, or fisheries license.

The Certificate may be simultaneously endorsed for operation under as many licenses as the vessel is qualified for and for which application has been made. However, where a vessel possesses a Certificate bearing 2 or more endorsements, the actual use of the vessel determines the license under which it is operating.

The revised term "documented", and the various "documented" classifications (registry, coastwise trade, Great Lakes trade, the fisheries, and pleasure use) would be inserted in certain other provisions of Part 4, Customs Regulations, and in subsection 10.59(e), Customs Regulations, to provide clarity and consistency.

Another change would be to revise section 4.80(h), Customs Regulations, to correspond with the amendment to 46 U.S.C. 319, by increasing the civil penalty for an undocumented vessel that arrives at a port without the proper Certificate. As amended by section 126(e)(1) of the Act, an undocumented vessel will be subject to a civil penalty of $500, as opposed to the existing $30 fine, for each port at which it arrives without a proper Certificate. This provision applies to any vessel employed in one of the trades, other than a trade covered by a registry, for which a Certificate is issued under the vessel documentation laws. Further, if this undocumented or improperly documented vessel has on board any foreign merchandise, sea stores excepted, or any domestic taxable alcoholic beverages, on which the duty and taxes have not been paid or secured to be paid, the vessel and its cargo are subject to seizure and forfeiture.

The other changes are minor technical and conforming amendments which provide clarity and consistency. These changes are not substantive, but merely procedural and are necessary to correspond to the new Coast Guard requirements. They are conforming amendments which are being made as part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

List of Subjects in 19 CFR

Part 4

Customs duties and inspection, imports, cargo vessels, coastal zone, fisheries, fishing vessels, harbors, reporting requirements, vessels, yachts.

Part 10

Customs duties and inspection, imports, fisheries.

Regulations Amendments

To conform the Customs Regulations to the Vessel Documentation Act and to changes in the Coast Guard regulations, Part 4, Customs Regulations (19 CFR Part 4), and Part 10, Customs Regulations (19 CFR Part 10), are amended in the following manner:

Part 4—Vessels in Foreign and Domestic Trades

1. Section 4.0(c) is revised to read as follows:

§ 4.0 General Definitions.

* * * * * * *

(c) The term "documented" vessel means a vessel for which a valid Certificate of Documentation, form CG 1270, issued by the U.S. Coast Guard is outstanding. Upon qualification and proper application to the appropriate Coast Guard Office, the Certificate of Documentation may be endorsed for (1) registry (generally, available to a vessel to be employed in foreign trade, trade with Guam, American Samoa, Midway, or Kingman Reef, and other employments for which another endorsement is not required), (2) coastwise license (generally, entitles a vessel to employment in the coastwise trade, the fisheries, and other employments for which another endorsement is not required), (3) Great Lakes license (generally, entitles a vessel to engage in the coastwise trade and the fisheries on the Great Lakes and their tributary and connecting waters, in trade with Canada, and in other employment for which another endorsement is not required), (4) fishery license (generally, subject to federal and state laws regulating the fisheries, entitles a vessel to fish within the fishery conservation zone (16 U.S.C. 1811) and landward of that zone and to land its catch) or (5) pleasure license (entitles a vessel to pleasure use only). Generally, any vessel of at least 5 net tons and wholly owned by a United States citizen or citizens is eligible for documentation except that for a coastwise, Great Lakes, or fisheries license endorsement a vessel must also be built in the United States. Detailed Coast Guard regulations on documentation are set forth in title 46, Code of Federal Regulations, sections 67.01-67.45.

* * * * * * *

2. Section 4.3 is amended by inserting the words "in accordance with section 4.9" at the end of paragraph (a).

3. Sections 4.7(d)(1) and (2) are revised to read as follows:

§ 4.7 Inward foreign manifest; production on demand; contents and form.

* * * * * * *

(d)(1) The master or owner of—

(i) A vessel documented under the laws of the United States with a registry, coastwise license, or Great Lakes license endorsement, or a vessel not so documented but intended to be employed in the foreign, coastwise, or Great Lakes trade, or

(ii) A documented vessel with a fishery license endorsement which has a permit to touch and trade (see section 4.15) or a vessel with a fishery license endorsement lacking a permit to touch and trade but intended to engage in trade—

At the port of first arrival from a foreign country shall declare on Customs Form 226 any equipment, repair parts, or materials purchased for the vessel, or any expense for repairs incurred, outside the United States, within the purview of section 466, Tariff Act of 1930, as amended (19 U.S.C. 1466). If no equipment, repair parts, or materials have been purchased, or repairs made, a declaration to that effect shall be made on Customs Form 226.

(2) If the vessel is at least 500 gross tons, the declaration shall include a statement that no work in the nature of a rebuilding or alteration which might give rise to a reasonable belief that the vessel may have been rebuilt within the meaning of the second proviso to section 27, Merchant Marine Act, 1920, as amended (46 U.S.C. 883), has been effected which has not been either previously reported or separately reported simultaneously with the filing of such declaration. The district director shall notify the U.S. Coast Guard vessel documentation officer at the home port of the vessel of any work in the nature of a rebuilding or alteration, including

the construction of any major component of the hull or superstructure of the vessel, which comes to his attention unless the district director is satisfied that the owner of the vessel has filed an application for rebuilt determination as required by 46 CFR 67.27-3.

* * * * * * *

4. Section 4.7(d)(4) is removed.
5. Section 4.9(a) is revised to read as follows:

§ 4.9 Formal entry.

(a) Section 4.3 provides which vessels are subject to formal entry and which are exempt from formal entry requirements. The formal entry of an American vessel from a foreign port or place shall be in accordance with section 434, Tariff Act of 1930 (19 U.S.C. 1434).[19] The term "American vessel" means a vessel of the United States (see section 4.0(b)) as well as a vessel entitled to be documented (see section 4.0(c)) except for its size when arriving by sea (if less than 5 net tons and arriving otherwise than by sea, see Part 123 of this chapter). The formal entry of a foreign vessel arriving within the limits of any Customs district shall be in accordance with section 435, Tariff Act of 1930 (19 U.S.C. 1435).[20] The required oath on entry shall be executed on Customs Form 1300.

* * * * * * *

6. Section 4.9(c) is revised to read as follows:

§ 4.9 Formal entry.

* * * * * * *

(c) The master of any foreign vessel shall exhibit the vessel's document to the district director on or before the entry of the vessel. After the net tonnage has been noted, the master may deliver it to the consul of the nation to which such vessel belongs, in which event he shall file with the district director the certificate required by section 435, Tariff Act of 1930 (19 U.S.C. 1435). If not delivered to the consul, the document shall be deposited in the customhouse. Whether delivered to the foreign consul or deposited at the customhouse, the document shall not be delivered to the master of the foreign vessel until clearance is granted under section 4.61.

* * * * * * *

7. The first sentence of section 4.14(a)(1) is revised to read as follows:

§ 4.14 Foreign equipment purchases by, and repairs to, American vessels.

(a) *Dutiability of foreign repairs and equipment purchases.*

(1) *Items subject to duty.* The equipment, or any part thereof, including boats, purchased for, or the repair parts or materials to be used, or the expenses for repairs made, including the cost of labor incurred, outside the United States, upon any vessel documented under the laws of the United States with a registry, coastwise trade license, or Great Lakes license endorsement, or intended to be em-

ployed in such trade, are dutiable at the rate of 50 percent ad val
rem on the actual cost in the country where the items are pu
chased or the repairs are made. * * *

* * * * * *

8. Sections 4.14(a)(2) (i)-(iv) are revised to read as follows:

(a) * * *

(1) * * *

(2) *Dutiable costs on specific types of vessels-*

(i) *Fishing vessels.* Documented vessels of the United States wit
a fishery license endorsement having a permit to touch and trad
(see section 4.15) and documented vessels with a fishery license en
dorsement which lack a permit to touch and trade are subject t
this section.

(ii) *Government-owned or chartered vessels.* Vessels owned c
chartered by the United States Government, if documented with
registry, coastwise trade, or Great Lakes trade endorsement, or
undocumented, intended to engage in foreign, coastwise or Grea
Lakes trade, are subject to this section. See paragraph (b)(2)(i) c
this section with respect to entry procedures for Government ve
sels.

(iii) *Special purpose vessels.*

(A) *Defined.* A vessel which is documented with a registry, coas
wise trade, or Great Lakes trade endorsement, but is designed an
used primarily for purposes other than transporting passengers c
merchandise, is considered to be a "special purpose vessel."

(B) *Requirements for declaration and entry.* The owner or maste
of a special purpose vessel shall declare and enter all items pu
chased, or repairs made, outside the United States unless Custom
previously has ruled the vessel is a special purpose vessel and th
vessel arrives in a port of the United States two years or mor
after its last departure from a port of the United States. Unde
these circumstances, only those items (with the exception of fis
nets and netting) purchased and repairs made, outside the Unite
States during the first six months after the vessel's last departur
from the United States shall be declared and entered. Fish net
and netting purchased or repaired outside the United States sha
be declared and entered whether or not purchased or repaire
during the first six months after departure. A copy of the applica
ble Customs ruling and a certification from the owner or maste
that the vessel was used during its last voyage primarily for pu
poses other than transporting passengers or merchandise shall b
furnished with the declaration and entry.

(C) *Dutiable items.* If the special purpose vessel is operated i
international or foreign waters two years or more after its last de
parture from the United States, the only dutiable items are fis
nets and netting whenever purchased and any other items pu
chased or repairs made during the first six months after the ve
sel's last departure from the United States.

(iv) *LASH Barges.* Lighter-aboard-ship (LASH) barges (see sections 4.81 and 4.81a) and similar vessels documented with a registry, coastwise trade, or Great Lakes trade endorsement or, if undocumented, intended to engage in such trade, are subject to this section.

* * * * * * *

9. The first sentence of section 4.15(a) is revised to read as follows:

§ 4.15 Fishing vessels touching and trading at foreign places.

(a) Before any vessel documented with a fishery license endorsement shall touch and trade at a foreign port or place, the master shall obtain from the district director a permit on Customs Form 1379 to touch and trade. * * *

* * * * * * *

10. Section 4.15(b) is revised to read as follows:

§ 4.15 Fishing vessels touching and trading at foreign places.

* * * * * * *

(b) Upon the arrival of a documented vessel with a fishery endorsement which has put into a foreign port or place, the master shall report its arrival, make entry, and conform in all respects to the regulations applicable in the case of a vessel arriving from a foreign port.

* * * * * * *

11. Section 4.15(d) is revised to read as follows:

§ 4.15 Fishing vessels touching and trading at foreign places.

* * * * * * *

(b) No permit to touch and trade shall be issued to a vessel which does not have a Certificate of Documentation with a fishery license endorsement.

* * * * * * *

12. Sections 4.21(b)(11) and (12) are revised to read as follows:

§ 4.21 Exemptions from tonnage taxes.

* * * * * * *

(11) It is a tug with a Great Lakes license endorsement on its vessel document, when towing vessels which are required to make entry.

(12) It is a documented vessel with a Great Lakes license endorsement which has touched at an intermediate foreign port or ports during a coastwise voyage.

* * * * * * *

13. Sections 4.60(b)(1) and (2) are revised to read as follows:

§ 4.60 Vessels required to clear.

* * * * * * *

(b) The following vessels are not required to clear:

(1) A documented vessel with a pleasure license endorsement or an undocumented American pleasure vessel (i.e., an undocumented vessel wholly owned by a United States citizen or citizens, whether or not it has a certificate of number issued by the State in which the vessel is principally used under 46 U.S.C. 1466–1467 and not engaged in trade nor violating the Customs or navigation laws of the United States and not having visited any hovering vessel (see 19 U.S.C. 1709(d)).

(2) Any documented vessel with a Great Lakes license endorsement which during a voyage on the Great Lakes will touch at a foreign port only for taking on bunker fuel.[91] (see § 4.82).

14. Section 4.64 is revised to read as follows:

§ 4.64 Documentation.

No clearance shall be granted to any documented vessel bound to a foreign port or place unless it has a Certificate of Documentation with a registry or, if departing for Canada, a Great Lakes license endorsement.

* * * * * * *

15. Part 4 is amended by removing footnote number "102".

16. Section 4.68(a) is revised to read as follows:

§ 4.68 Crew; passengers.

(a) Clearance shall not be granted to any vessel bound on a foreign voyage or engaged in the whale fishery until a crew list has been delivered to the district director in duplicate on Customs and Immigration Form I-418. The district director shall certify the duplicate copy and return it to the master for later presentation to Customs (see section 4.9(b)).

* * * * * * *

17. Sections 4.80(a)(2) and (3), (d), and (h) are revised to read as follows:

§ 4.80 Vessels entitled to engage in coastwise trade.

(a) * * *

(1) * * *

(2) Owned by a citizen, is exempt from documentation, and is entitled to or, except for its tonnage, would be entitled to be documented with a coastwise license or, where appropriate, a Great Lakes license endorsement.

(3) Owned by a partnership or association in which at least a 75 percent interest is owned by such a citizen, is exempt from documentation and is entitled to or, except for its tonnage, or citizenship of its owner, or both, would be entitled to be documented for the coastwise trade. The term "citizen" for vessel documentation purposes, whether for an individual, partnership, or corporation owner, is defined in 46 CFR Subpart 67.03.

* * * * * * *

(d) No vessel owned by a corporation which is a citizen of the United States under the Act of September 2, 1958 (46 U.S.C. 883-1) shall be used in any trade other than the coastwise trade and shall not be used in that trade unless it is properly documented for such use or is exempt from documentation and is entitled to or, except for its tonnage, would be entitled to a coastwise license, or where appropriate, a Great Lakes license endorsement. Such a vessel shall not be documented for nor engage in the foreign trade or the fisheries and shall not transport merchandise or passengers coastwise for hire except as a service for a parent or a subsidiary corporation as defined in the aforesaid Act or while under demise or bareboat charter at prevailing rates for use otherwise than in trade with noncontiguous territory of the United States to a common or contract carrier subject to Part III of the Interstate Commerce Act, as amended (49 U.S.C. 901-923), which otherwise qualifies as a citizen of the United States under section 2 of the Shipping Act, 1916, as amended (46 U.S.C. 802), and which is not connected, directly or indirectly, by way of ownership or control with such owning corporation.

* * * * * * *

(h) Any vessel, entitled to be documented and not so documented, employed in a trade for which a Certificate of Documentation is ssued under the vessel documentation laws (see section 4.0(c)), other than a trade covered by a registry, is liable to a civil penalty of $500 for each port at which it arrives without the proper Certificate of Documentation. If such a vessel has on board any foreign merchandise (sea stores excepted), or any domestic taxable alcoholc beverages, on which the duty and taxes have not been paid or ecured to be paid, the vessel and its cargo are subject to seizure and forfeiture.

* * * * * * *

18. Section 4.81(a) is revised to read as follows:

§ 4.81 **Reports of arrivals and departures in coastwise trade.**

(a) No vessel which is documented with a coastwise license or egistry endorsement or is owned by a citizen and exempt from documentation, and which is in ballast or laden only with domestic products or passengers being carried only between points in the United States shall be required to report arrival or to enter when oming into one port of the United States from any other such port, except as provided for in sections 4.83 and 4.84, nor to obtain a clearance, permit to proceed, or permission to depart when going rom one port in the United States to any other such port except when transporting merchandise to a port in noncontiguous terriory.

* * * * * * *

19. The first sentences of section 4.82(a) and (c) are revised to ead as follows:

§ 4.82 Touching at foreign port while in coastwise trade.

(a) A documented vessel with a registry or, where appropriate, a Great Lakes license endorsement which, during a voyage between ports in the United States, touches at one or more foreign ports and there discharges or takes on merchandise, passengers, baggages, or mail shall obtain a permit to proceed or clearance at each port of lading in the United States for the foreign port or ports at which it is intended to touch.

* * * * * * *

(c) Upon arrival from the foreign port or ports at the subsequent port in the United States, a report of arrival and entry of the vessel shall be made, and tonnage taxes shall be paid unless the vessel is properly operating under a document with Great Lakes license endorsement. * * *

* * * * * * *

20. Section 4.83(b) is revised to read as follows:

§ 4.83 Trade between United States ports on the Great Lakes and other ports of the United States.

* * * * * * *

(b) A vessel in the coastwise trade only, which is proceeding from a port of the United States on the Great Lakes via the Hudson River and otherwise than by sea, may operate under a document with a Great Lakes license endorsement and shall not be subject to the requirements for clearance, report of arrival, or entry.

* * * * * * *

21. The first sentence of section 4.85(a) is revised to read as follows:

§ 4.85 Vessels with residue cargo for domestic ports.

(a) Any foreign vessel or documented vessel with a registry or, where appropriate, a Great Lakes license endorsement, arriving from a foreign port with cargo or passengers manifested for ports in the United States other than the port of first arrival, may proceed with such cargo or passengers from port to port, provided a vessel bond (Customs Form 7567 or 7569) in a suitable amount is on file with the district director at the port of first entry.* * *

* * * * * * *

22. Section 4.87(a) is revised to read as follows:

§ 4.87 Vessels proceeding foreign via domestic ports.

(a) Any foreign vessel or documented vessel with a registry or, where appropriate, a Great Lakes license endorsement may proceed from port to port in the United States to lade cargo or passengers for foreign ports.

* * * * * * *

23. Section 4.88(a) is revised to read as follows:

§ 4.88 Vessels with residue cargo for foreign ports.

(a) Any foreign vessel or documented vessel with a registry or, where appropriate, a Great Lakes license endorsement which arrives at a port in the United States from a foreign port shall not be required to unlade any merchandise manifested for a foreign destination provided a vessel bond (Customs Form 7567 or 7569) in a suitable amount is on file with the district director at the port of first entry.

* * * * * * *

24. Section 4.90(d) is revised to read as follows:

§ 4.90 Simultaneous vessel transactions.

* * * * * * *

(d) A documented vessel may engage in transactions (2), (4), (5), or (6) only if the vessel's document has a registry or, where appropriate, a Great Lakes license endorsement. Such a vessel shall not engage in transactions (1) or (3) unless permitted by the endorsement on its Certificate of Documentation to do so.

* * * * * * *

25. The first sentence of section 4.94(a) is revised to read as follows:

§ 4.94 Yacht privileges and obligations.

(a) Any documented vessel with a pleasure license endorsement shall be used exclusively for pleasure and shall not transport merchandise nor carry passengers for pay * * *

* * * * * * *

26. Sections 4.96(b) and (c) are revised to read as follows:

§ 4.96 Fisheries.

* * * * * * *

(b) Except as otherwise provided by treaty or convention to which the United States is a party (see paragraphs (d) and (g) of this section), no foreign-flag vessel shall, whether documented as a cargo vessel or otherwise, land in a port of the United States its catch of fish taken on board such vessel on the high seas or fish products processed therefrom, or any fish or fish products taken on board such vessel on the high seas from a vessel engaged in fishing operations or in the processing of fish or fish products. (46 U.S.C. 251). This prohibition applies regardless of the intended ultimate disposition of the fish or fish products (e.g., it applies to transshipments from the foreign vessel to another vessel in United States territorial waters; it applies to landing for transshipment in bond to Canada or Mexico; it applies to landing for exportation under bond; and it applies to landing in a Foreign Trade Zone). However, the prohibition is limited to fish, or fish products processed therefrom, taken on board the foreign vessel on the high seas.

(c) A vessel of the United States to be employed in the fisheries must have a Certificate of Documentation endorsed with a fishery license. "Fisheries" includes the planting, cultivation, catching, taking, or harvesting of fish, shellfish, marine animals, pearls, shells or marine vegetation at any place within the territorial waters of the United States or the fishery conservation zone established by 16 U.S.C. 1811.

* * * * * * *

27. Part 4 is further amended by removing section 4.96(i) and footnotes 131 b and 132 c.

(R.S. 251, secs. 2, 3, 23 Stat. 118, as amended, 119, as amended, secs. 309, 317, 46 Stat. 690, as amended, 696, as amended, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72, 77A Stat. 14 (5 U.S.C. 301, 19 U.S.C. 66, 1202, 1309, 1317, 1624, 46 U.S.C. 2, 3; General Headnote 11, 12, Tariff Schedules of the United States))

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

The first sentence of section 10.59(e) is revised to read as follows:

§ 10.59 Exemption from customs duties and internal revenue tax.[56]

* * * * * * *

(e) A documented vessel with a fisheries license endorsement and foreign fishing vessels of 5 net tons or over may be allowed to withdraw distilled spirits (including alcohol), wines, and beer conditionally free under section 309, Tariff Act of 1930, as amended (19 U.S.C. 1309), if the district director is satisfied from the quantity requested, in the light of (1) whether the vessel is employed in substantially continuous fishing activities, and (2) the vessel's complement, that none of the withdrawn articles is intended to be removed from the vessel in, or otherwise returned to, the United States without the payment of duty or tax. * * *

* * * * * * *

(R.S. 251, as amended, secs. 309, 317, 624, 46 Stat. 690, as amended, 696, as amended, 759, 77A Stat. 14; 5 U.S.C. 301, 19 U.S.C. 66, 1202, 1309, 1317, 1624 (General Headnote 11, 12, Tariff Schedules of the United States))

EXECUTIVE ORDER 12291

Because these amendments do not meet the criteria for a "major rule" as defined by section 1(b) of E.O. 12291, the regulatory impact analysis prescribed by section 3 of the E.O. is not required.

INAPPLICABILITY OF REGULATORY FLEXIBILITY ACT

This document is not subject to the provisions of sections 603 and 604 of title 5, United States Code, as added by section 3 of Pub. L. 96-354, the "Regulatory Flexibility Act." That Act does not apply to any regulations such as these for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) or any other statute.

INAPPLICABILITY OF PUBLIC NOTICE

Because these amendments merely clarify existing regulations, only implement a statutory requirement, and impose no additional duty or burden on the public, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure are unnecessary.

DRAFTING INFORMATION

The principal author of this document was James S. Demb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

ROBERT P. SCHAFFER,
Acting Commissioner of Customs.

Approved: September 21, 1983.
JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, October 13, 1983 (FR 46510)]

(T.D. 83-215)

Bonds

Approval and discontinuance of consolidated aircraft bond (air carrier blanket bond), Customs Form 7605

The following consolidated aircraft bonds have been approved or discontinued as shown below. The symbol "D" indicates that the ond previously outstanding has been discontinued on the month, lay, and year represented by the figures which follow. "PB" refers o a previous bond, dated as represented by the figures in parenthees immediately following, which has been discontinued. If the preious bond was in the name of a different company or if the surety vas different, the information is shown in a footnote at the end of he list.

Dated: October 7, 1983.

Name of principal and surety	Date term commences	Date of approval	Filed with district director/area director/amount
Wisconsin, Inc., Outagamie Air-ort, Appleton, WI; Safeco Insurance ompany of America. D 9/27/83.	Aug. 18, 1982[1]	Aug. 18, 1982	Chicago, IL $100,000

[1] This date was incorrectly given in T.D. 82-167 as August 10, 1982.

BON-3-01

EDWARD B. GABLE, Jr.,
Director,
Carriers, Drawback and Bonds Division.

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19 CFR Part 4

(T.D. 83-216)

Customs Regulations Amendment Relating to Licensing of Certain Foreign Pleasure Vessels

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations relating to cruising licenses. Cruising licenses exempt pleasure vessels from certain countries from formal entry and clearance procedures at all but the first port of entry in the United States. The document: (1) Extends the duration of cruising licenses for pleasure boats from six months to one year; and (2) adds a warning statement on cruising licenses to apprise license-holders under what conditions their vessels may be dutiable. These changes will save considerable time for vessel owners and Customs personnel and facilitate compliance with the applicable regulation.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT: Harold M. Singer, Carriers, Drawback and Bonds Division (202-566-5706), U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 4.94(a), Customs Regulations (19 CFR 4.94(a)), provides that U.S. vessels documented as yachts, used exclusively for pleasure, not engaged in any trade, and not violating the Customs or navigation laws of the United States, may proceed from port to port in the United States or to foreign ports without entering and clearing, as long as they have not visited hovering vessels.

Generally, foreign-flag yachts entering the United States are required to comply with the laws applicable to foreign vessels arriving at, departing from, and proceeding between ports of the United States. However, as provided in section 4.94(b), Customs Regulations (19 CFR 4.94(b)), pleasure vessels from certain countries may be issued cruising licenses which exempt them from formal entry and clearance procedures (e.g., filing manifests, obtaining permits to proceed and exemptions from the payment of tonnage tax and clearance fees) at all but the first port of entry. Cruising licenses are available to pleasure vessels of countries which extend reciprocal privileges to U.S. pleasure vessels. A list of these countries also is set forth in section 4.94(b).

Cruising licenses may be issued for six-month periods by any district director of Customs in accordance with requirements set forth in section 4.94(c), Customs Regulations (19 CFR 4.94(c)).

Presently, when a cruising license expires at the end of six months, a successive cruising license for an additional period of time may be granted at the discretion of the district director. However, in a decision abstracted as T.D. 55218(1) (September 6, 1960), Customs discouraged this practice by stating that successive cruising licenses shall not be issued for extended periods of time as they are not intended as a form of permanent license. In some regions the yachting season extends beyond the six-month limitation, making it necessary for masters of vessels to seek successive licenses. Extension of the duration of cruising licenses to one year will result in fewer requests for renewal of licenses, thereby saving considerable time for both vessel owners and Customs personnel.

The "warning" added to cruising licenses is intended to apprise license-holders of the law concerning dutiability and the consequences of selling, chártering, or offering to sell or charter a vessel at the time of, or within one year of the vessel's arrival, as appropriate. There have been instances when vessel owners' unfamiliarity with the provisions of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) and Customs long-standing policy on this subject has resulted in the forfeiture of a vessel when it was sold or chartered, or offered for sale or charter, at the time of, or within one year of, arrival without first paying the required duty.

Accordingly, by notice published in the Federal Register on October 19, 1982 (47 FR 46534), Customs proposed to amend section 4.94 (c) and (d) to: (1) Extend the duration of cruising licenses from six months to one year, and (2) amend the wording of cruising licenses to apprise license-holders under what conditions their vessels may be dutiable. Comments on the proposal were to have been received on or before December 20, 1982.

Discussion of Comments

Four comments were received in response to the proposal; two comments favored the proposal as published. One comment suggested further changes in the cruising license procedures and an examination of the warning language. The fourth concerned reciprocity between Canada and the United States regarding such licenses.

The changes suggested in the cruising license procedures are that reciprocity between different countries and the United States should not be required, and the renewal of cruising licenses should

READEX FICHE pages tightly bound

be permitted at the pleasure boat's next port of entry after the license expires.

A foreign country must allow pleasure vessels belonging to a resident of the United States to arrive at and depart from its waters and cruise in its waters without entering or clearing and without the payment of dues, duty per ton, tonnage taxes or charges for cruising licenses, or the United States will not extend the same privileges to that country's vessels in United States waters, pursuant to 46 U.S.C. 104. This is a statutory requirement. Accordingly, the only method by which Customs could allow all foreign vessels to have these privileges without reciprocity would be by legislative action.

Cruising licenses are not to be routinely renewed. They are not normally extended, but may be renewed in the discretion of a district director for cause. Pursuant to Treasury Decision 55218(1), cruising licenses are not intended as a form of permanent license to permit any vessel to remain indefinitely in U.S. waters. Consequently, they may not be routinely renewed at the next port of entry after the original license expires.

The comment concerning the warning language outlines various situations under which a yacht may or may not be dutiable and takes issue with the statement that a foreign-built yacht becomes dutiable when listed for sale. The warning language set forth in the proposal is meant as a general statement and does not cover every contingency. As the warning statement accurately reflects Customs position, we see no reason to change it.

The comment concerning reciprocity between Canada and the United States suggests that reciprocity does not exist between Canadian and U.S. pleasure vessels, that section 4.94 fails to provide any enforcement mechanism, and that Canadian vessels should not be permitted to remain indefinitely in United States waters as United States vessels are not permitted to remain indefinitely in Canadian waters. As an example of the lack of reciprocity, the commenter states that Canadian Customs rules specify that in the event a U.S. boater fails to remove the vessel from Canadian jurisdiction "within the period in respect to which the permit was issued or renewed, the pleasure craft should be deemed to have been unlawfully imported into Canada and is liable to seizure and forfeiture in the manner set out in the Customs Act."

The reciprocity that Canada extends to the United States applies, pursuant to 46 U.S.C. 104, to allowing U.S. vessels to arrive at and depart from its waters without entry or clearing, dues, duty per ton or tonnage taxes when they are temporarily entered by nonresidents for their personal use. Canada does not issue cruising licenses, but has no requirement necessitating reporting after the initial entry of a pleasure vessel by a non-resident. Further, a nonresident may retain a pleasure vessel in Canada for up to twelve months. While it is generally true that Canadian Customs duties and taxes will apply if a pleasure vessel brought into Canada by a nonresident is not re-exported from Canada at the earlier of the end of the nonresident's visit or twelve months, and a foreign vessel may remain in the United States once its cruising license expires, the reciprocity discussed in 46 U.S.C. 104 is addressed to the initial treatment a United States yacht receives in a foreign country.

Concerning lack of an enforcement mechanism, it is true that a Canadian vessel, as well as any other foreign pleasure vessel, is permitted to remain in the United States once its license expires. However, at that time the Canadian vessel would become subject to U.S. vessel entry and clearance requirements, and failure to enter and clear when required, would subject the vessel to certain penalties.

Finally, whether a foreign vessel has a cruising license has no effect on whether the vessel is dutiable. Pursuant to Schedule 6, Part 6, Subpart D, Headnote 1(i), TSUS, there are no duty consequences for a yacht or pleasure boat brought into the United States by a nonresident for his own use in pleasure cruising. This would apply regardless of whether the vessel possesses a cruising license.

After consideration of the comments and further review of the matter, it has been determined to adopt the proposal.

EXECUTIVE ORDER 12291

This document does not contain a "major rule" requiring preparation of a regulatory impact analysis under Executive Order 12291.

REGULATORY FLEXIBILITY ACT

It is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this rule will not have a significant economic impact on a substantial number of small entities.

DRAFTING INFORMATION

The principal author of this document was Jesse V. Vitello, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service (202-566-8237). However, personnel from other Customs offices participated in its development.

LIST OF SUBJECTS IN 19 CFR PART 4

Customs inspection and duties, imports, vessels, yachts.

AMENDMENT TO THE REGULATIONS

Part 4, Customs Regulations (19 CFR Part 4), is amended as set forth below.

WILLIAM VON RAAB,
Commissioner of Customs.

Approved: October 3, 1983.
JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, October 20, 1983 (48 FR 48653)]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Section 4.94, Customs Regulations (19 CFR 4.94), is amended in the following manner:

1. The third sentence in § 4.94(c) is amended to read as follows:

§ 4.94 Yacht privileges and obligations.

* * * * * * *

(c) * * * Upon an approval of the application, the district director will issue a cruising license in the form prescribed by paragraph (d) of this section permitting the yacht, for a stated period not to exceed one year, to arrive and depart from the United States and to cruise in specified waters of the United States without entering and clearing, without filing manifests and obtaining or delivering permits to proceed, and without the payment of entrance and clearance fees, or fees for receiving manifests and granting permits to proceed, duty on tonnage, tonnage tax, or light money.* * *

(2) Paragraph (d) of § 4.94 is amended by adding the following "warning" at the end of the form

(d)* * *

Warning: This vessel is dutiable

(1) If owned by a resident of the United States (including Puerto Rico), or brought into the United States (including Puerto Rico), for sale or charter to a resident thereof, or

(2) If brought into the United States (including Puerto Rico) by a nonresident free of duty as part of personal effects and sold or chartered within one year from date of entry.

Any offer to sell or charter (for example, a listing with yacht brokers or agents) is considered evidence that the vessel was brought in for sale or charter to a resident or, if made within one year of entry of a vessel brought in free of duty as personal effects, that the vessel no longer is for the personal use of the nonresident.

If the vessel is sold or chartered, or offered for sale or charter, in the circumstances described, without the owner first having filed a consumption entry and having paid duty, the vessel may be subject to seizure or to a monetary claim equal to the value of the vessel. See Schedule 8, Part 2, Subpart A, Headnote 1(b). Tariff Schedules of the United States ("TSUS"), items 696.05 and 696.10, TSUS, and 19 U.S.C. 1592.

* * * * * * *

(R.S. 251, as amended, section 3, 23 Stat. 119, as amended, section 5, 35 Stat. 425, as amended 46 Stat. 759, 80 Stat. 379, (5 U.S.C. 301, 19 U.S.C. 66, 624, 46 U.S.C. 3, 104)).

19 CFR Part 134

(T.D. 83-217)

CUSTOMS REGULATIONS AMENDMENT RELATING TO LIQUIDATED DAMAGES AND COUNTRY OF ORIGIN MARKING

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by modifying the negligence or bad faith requirement to one of bad faith before the district director may grant relief from the payment of liquidated damages incurred for failure to (a) properly mark imported articles (or their containers) with the country of origin, or (b) redeliver all released articles to Customs custody for marking, exportation, or destruction. This change gives district directors the same discretion in handling petitions for relief from liquidated damages resulting from improperly marked merchandise as they have in handling petitions relating to relief from liquidated damages incurred for other types of violations.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT: Kathryn C. Peterson, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5746).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Under section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), every article of foreign origin (or its container) imported into the United States shall be marked in a conspicuous place as legibly, indelibly, and permanently as the article or container will permit, in such manner as to indicate to an ultimate purchaser, the English name of the country of origin of the article. Section 304(c) provides that any articles not marked as required, shall be subject to a duty of 10 percent ad valorem, in addition to any other duty imposed by law and whether or not the article is exempt from the payment of ordinary Customs duties, unless the article is exported, destroyed, or marked under Customs supervision. These marking duties cannot be remitted, wholly or in part.

In addition to the requirement for marking duties under section 304(c) for a country of origin marking violation, civil penalties may be incurred under section 592, Tariff Act of 1930, as amended (19

U.S.C. 1592), for importing merchandise by means of false documents. Further, criminal sanctions may be assessed under 18 U.S.C. 1001 for presenting false and misrepresented documents to the Government in connection with an entry. If merchandise released from Customs custody under a bond is found not to be legally marked, liquidated damages also may be assessed for breach of the bond conditions.

In some instances, the total amount of liabilities which may be assessed for articles found not legally marked can far exceed the dutiable value of the imported merchandise.

Part 134, Customs Regulations (19 CFR Part 134), sets forth the country of origin marking requirements and exceptions from 19 U.S.C. 1304, as well as the consequences of violation and procedures to be followed if imported articles are not legally marked.

Under section 134.51(a), Customs Regulations (19 CFR 134.51(a)), if merchandise is found upon examination not to be legally marked, the district director shall notify the importer to arrange with the district director's office to properly mark the articles or containers, or to return all released articles to Customs custody for marking, exportation, or destruction. If the importer does not properly mark or redeliver all merchandise previously released to him, as provided in section 134.54(a), the district director shall demand payment of liquidated damages incurred under the importer's bond in an amount equal to the entered value of the articles not properly marked or redelivered, plus any estimated duty determined at the time of entry. Section 134.54(b), Customs Regulations (19 CFR 134.54(b)), states that a petition for relief from the payment of liquidated damages may be filed with the district director in accordance with Part 172, Customs Regulations (19 CFR Part 172). However, section 134.54(c) provides that any relief from the payment of full liquidated damages incurred will be contingent upon the deposit of the marking duties required by 19 U.S.C. 1304(c).

Section 134.54(c) further provides that the district director may grant relief from the payment of full liquidated damages only if he is satisfied that the importer: (1) was not guilty of negiligence or bad faith in permitting the illegally marked articles to be distributed; (2) has been diligent in attempting to secure compliance with the marking requirements; and (3) has attempted by all reasonable means to effect redelivery of the articles to Customs custody.

Under the provisions of section 172.21, Customs Regulations (19 CFR 172.21), the district director may cancel any claims for liquidated damages incurred under such terms and conditions as, under the law and in view of the circumstances, he shall deem appropriate when the claim is $50,000 or less. Guidelines for the cancellation of bond charges are set out in Appendix AA, Section 6.11, Customs Fines, Penalties and Forfeitures Handbook (HB 4400, March 1979 Revision).

These guidelines pertain to situations involving negligent, but nintentional failures to redeliver merchandise. The guidelines, vhich are in line with present Customs policy regarding the remis-ion and mitigation of assessed liabilities, are not rigid rules. If cir-umstances indicate, the district director may deviate from them.

The provisions of section 134.54(c) generally conflict with Part 72 in that they are contrary to the discretionary provisions in Part 172. They also contradict the guidelines set out in the Cus-oms Fines, Penalties and Forfeitures Handbook. Further, the re-uirements in section 134.54(c) work a hardship on petitioners vhere the violation is caused by ordinary negligence or where the iolation is caused by ordinary negligence or where the violation esulted from an unintentional mistake.

Accordingly, to afford district directors the same discretion in andling petitions for relief from liquidated damages resulting rom improperly marked merchandise as they have in handling pe-itions filed under the provisions of Part 172, by notice published in he Federal Register on August 27, 1982 (47 FR 37926), Customs roposed to amend section 134.54(c) to modify the negligence or bad aith requirement to one of bad faith. The requirement that the listrict director be satisfied that the importer was not guilty of egligence in permitting the illegally marked items to be distribut-d was deleted.

Discussion of Comments

Seven comments were received in response to the notice of pro-osed rulemaking (NPRM). Three of the comments received were avorable and four were opposed. Basically, domestic interests op-osed the modification and importers favored the change.

Those opposing stressed the importance of the marking require-nents, the threat to domestic industry by lax enforcement, and the erception that the proposed change would create. One commenter aid it would oppose a "proposal [which would] further weaken the otential penalties an importer faces for distributing illegally narked imported articles."

The proposed change would amend the negligence standard as it s applied in consideration of petitions for relief from liquidated lamages demanded for failure to redeliver merchandise recalled ecause of improper marking. One commenter seemed to believe hat the proposed change would mean full relief for importers en-ering improperly marked goods.

This is not true. The provisions of section 134.54(c) currently pro-ibit any relief if the importer is simply negligent, not that he acts ntentionally but that he acts negligently. The standard therein is imply too harsh. Sanctions will not be completely removed by the nodification. Importers will continue to be subject to liability, just ot the full amount of the bond (which is written in the amount of he value of the merchandise).

One commenter suggests that Customs should maintain the present standards because of Congress's express intent that goods be clearly marked in order to insure that domestic purchasers may make an informed choice when selecting between domestic and foreign manufactured goods. The modification made by this document will not abandon or undermine this objective. This modification relates simply to liquidated damages for failure to redeliver merchandise in a narrow sense, not failure to mark the merchandise. Section 1304 provides the sanction for not marking which is a 10 percent marking duty. The bond contract provides another sanction for failing to meet the conditions of the bond. It is the bond obligation that we are dealing with in this case. The commenter would have one infer the worst of motives to all offending importers and to treat all importers alike. Customs has through experience found, however, that not all importers are alike, in motive or deed, and that there is a need for flexibility to deal with and sanction different importers differently. This is the purpose to be served by the amendment.

After consideration of the comments, and further review of the matter, it has been decided to adopt the change as proposed. However, rather than set forth the entire section, the amendment is being made by removing the words "negligence or" from section 134.54(c).

EXECUTIVE ORDER 12291

This document will not result in a regulation which is a "major rule" as defined by section 1(b) of Executive Order 12291. Accordingly, a regulatory impact analysis has not ben prepared.

REGULATORY FLEXIBILITY ACT

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604), are not applicable to this amendment because the rule will not have a significant impact on a substantial number of small entities.

Accordingly, it is certified under the provisions of section 3, Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule will not have a significant economic impact on a substantial number of small entities.

PAPERWORK REDUCTION ACT

This document is not subject to the Paperwork Reduction Act.

DRAFTING INFORMATION

The principal authors of this document were Jesse V. Vitello and John E. Elkins, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 134

Containers, Customs duties and inspection, Importers, Imports, abeling, and Packaging.

Amendment to the Regulations

Part 134, Customs Regulations (19 CFR Part 134), is amended as t forth below.

WILLIAM VON RAAB,
Commissioner of Customs.

Approved: October 3, 1983.
JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, October 20, 1983 (48 FR 48657)]

PART 134—COUNTRY OF ORIGIN MARKING

Section 134.54, Customs Regulations (19 CFR 134.54), is amended y removing the words "negligence or" from paragraph (c).

R.S. 251, as amended, sections 304, 624, 46 Stat. 687, as amended, 759, 77A Stat. 14; (19 U.S.C. 66, 1202 (General Headnote 11), 1304, 1624))

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19 CFR Part 18

(T.D. 83-218)

ustoms Regulations Amendments Relating to Special Manifest Procedures for Overcarried and Prematurely Discharged Merchandise

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide detailed special manifest procedures for overcarried and prematurely discharged merchandise (merchandise which is unladen or discharged by the carrier at a Customs port other than the port for which the merchandise was manifested or destined) and other such types of movements whereby the normal transportation-in-bond procedures are not applicable. The special manifest procedures authorize district directors of Customs at ports where such merchandise has been unladen or discharged to permit it to be returned as a bonded shipment under a special manifest to the destination shown on the importing carrier's manifest (manifested port). The use of these manifest procedures, which apply primarily to overland shipments, allows the importer or carrier to include the returned merchandise in the original entry summary previously

filed at the manifested port and obtain the rate of duty applicable to that entry.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT: Jerry Laderberg, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5765).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Overcarried and prematurely discharged merchandise is imported merchandise which is unladen or discharged by the carrier at a Customs port other than the port for which the merchandise was manifested or destined.

For example, in the case of overcarried merchandise, a consumption entry is filed in New York (port of destination on manifest) to cover an entire shipment, but a portion of the shipment is inadvertently diverted to Miami where it is unladen or discharged. Prematurely discharged merchandise is where a consumption entry is filed in Miami (port of destination on manifest) to cover an entire shipment, but a portion of the shipment is inadvertently discharged in New York (port of entry). In each case, the importer wishes to return the overcarried or prematurely discharged merchandise to the manifested port and have it included in the original entry summary filed there and obtain the rate of duty applicable to that entry. This is significant because under section 315, Tariff Act of 1930, as amended (19 U.S.C. 1315), except as otherwise specially provided for, the rate of duty imposed on articles entered for consumption or withdrawn from warehouse is the rate in effect when the document comprising the entry for consumption or withdrawal for consumption and any estimated duties then required to be paid have been deposited with Customs at the manifested port.

The regulations now provide two different manifest procedures whereby prematurely discharged or overcarried merchandise may be returned to the manifested port.

(1) Under section 4.34 (a) and (b), Customs Regulations (19 CFR 4.34 (a) and (b)), which relate specifically to vessel shipments, upon receipt of a satisfactory written application from the owner or agent of the vessel establishing either that cargo was prematurely landed and left behind by the importing vessel through error or emergency or was not landed at its destination and was overcarried to another domestic port through error or emergency, the district director may permit the cargo to be returned in the importing vessel, or in another vessel owned or chartered by the owner of the importing vessel, to the destination shown on the Cargo Declaration, Customs Form 1302, of the importing vessel, provided the importing vessel actually entered the port of destination.

(2) Under section 18.10a, Customs Regulations (19 CFR 18.10a), which relates primarily to overland shipments, merchandise for which no other type of bonded movement is appropriate may be shipped in bond from one port to another when such shipment is authorized by the district director having custody of the merchandise. For this purpose, Customs Form 7512 is to be used as a special manifest. The manifest procedures are set forth in detail in Customs Circular TRA-7-EV, dated September 17, 1963.

Section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), requires that a separate entry be filed for each shipment arriving in the United States. When an immediate transportation entry (I.T.) is separately filed for a portion of the original shipment, that portion is considered a separate shipment, and thus a separate consumption entry must be made for the portion of the merchandise even though a consumption entry was filed previously at the manifested port covering the entire shipment.

It has come to Customs attention that some overland freight carriers have been returning overcarried and prematurely discharged merchandise to the manifested port under an I.T. entry instead of using the special manifest procedures referred to in section 18.10a. In some cases, this has resulted in a rate of duty and/or date of importation different from that applied to the merchandise which was timely delivered to the manifested port and covered under the original entry summary. To solve this problem, Customs Headquarters issued Ruling No. 711164, dated October 18, 1976, which held that merchandise, whether overcarried or prematurely discharged, may be included in an entry summary for consumption already filed at the manifested port and subject to the rates of duty applicable to that entry summary, if returned under one of the two special manifest procedures discussed above. The ruling also held that if, instead of the special manifest procedure, overcarried or prematurely discharged merchandise is returned to the manifested port under an I.T. entry, the returned merchandise would be accorded the same status as any other arrival of merchandise under an I.T. entry, unless the district director is satisfied that the filing of the I.T. entry was done because of a clerical error, mistake of fact, or other inadvertence within the meaning of section 520(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)(1)). Under these circumstances, the district director may permit the substitution of a special manifest for the I.T. entry.

Before issuance of Ruling No. 711164, *supra*, Customs Headquarters conducted an informal survey of its field offices to ascertain views on requiring the use of one of the two special manifest procedures for returning overcarried or prematurely discharged merchandise to the manifested port. While the ruling was favorably received, it was revealed that in many cases, an I.T. entry was being filed and accepted for the returned merchandise because some Customs personnel and carriers were simply unfamiliar with the special manifest procedures referred to in section 18.10a, Customs Regulations.

Accordingly, to clarify this situation, on January 25, 1983, Customs published a notice in the Federal Register (48 FR 3379) proposing to amend section 18.10a, Customs Regulations, to provide detailed manifest procedures for returning overcarried and prematurely discharged merchandise to the manifested port. These procedures would apply also to other types of movements whereby the normal in-bond procedures are not applicable.

Interested parties had until March 28, 1983, to submit comments on the proposal. After consideration of the four comments received, the amendments to Part 18 are being adopted as proposed with two minor technical clarifications being made.

DISCUSSION OF COMMENTS

One commenter observes that there is an ambiguity in section 18.10a(b)(2) in that the first sentence requires the date and entry number of an entry made at the manifested port, whereas the second sentence of that section provides an alternative time frame when no entry is identified. To clarify this matter, the phrase "if known" is being added at the end of the first sentence of section 18.10a(b)(2).

Another commenter notes that the procedure discussed in section 18.10a is not acceptable to an airline because merchandise overcarried by an airline is returned to the intended destination on the same day, if possible, and in any event, within 24 hours.

Customs appreciates the concern of the commenter. However, as noted in the proposal, section 18.10a relates primarily to overland shipments, rather than shipments by aircraft, and is for the benefit of the importer.

The third commenter requests clarification that when this procedure is used, Customs Form 7512 is treated as a special manifest. Customs notes that the second sentence of proposed section 18.10a(a) states * * * "For this purpose, Customs Form 7512 prepared in quadruplicate shall be used as a special manifest."

The fourth commenter observes that there is a misunderstanding relating to the use of the special manifest procedure when the port of discharge has been changed under the diversion procedures in section 4.33, Customs Regulations (19 CFR 4.33). To clarify this point, Customs is adding at the end of section 18.10a(b)(1) the phrase * * * "including to the port of diversion (see section 4.33), when different from the original manifest port."

EXECUTIVE ORDER 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

REGULATORY FLEXIBILITY ACT

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (Pub. L. 96-353, 5 U.S.C. 601, *et seq.*), it is hereby certified that the regulations set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

DRAFTING INFORMATION

The principal author of this document was Charles Ressin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

LIST OF SUBJECTS IN 19 CFR PART 18

Customs duties and inspection, Imports, Common carriers, Freight forwarders, Motor carriers, and Freight.

AMENDMENTS TO THE CUSTOMS REGULATIONS

Section 18.10a, Customs Regulations (19 CFR 18.10a), is amended as set forth below.

ALFRED R. DE ANGELUS,
Acting Commissioner of Customs.

Approved: October 3, 1983.
JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, October 20, 1983 (48 FR 48655)]

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

Section 18.10a, Customs Regulations (19 CFR 18.10a), is revised to read as follows:

§ 18.10a Special manifest.

(a) *General.* Merchandise for which no other type of bonded movement is appropriate (e.g., prematurely discharged or overcarried merchandise or other such types of movements whereby the normal transportation-in-bond procedures are not applicable) may be shipped in bond from the port of unlading to the destination shown on the importing carrier's manifest (manifested port) when authorized by the district director having custody of the merchandise. For this purpose, Customs Form 7512 prepared in quadruplicate shall be used as a special manifest.

(b) *Manifest procedures.* (1) Written application shall be made to the district director where the merchandise is being held for permission to return it as a bonded shipment under a special manifest to the manifested port, including to the port of diversion (see section 4.33 of this chapter), when different from the original manifested port.

(2) The application and accompanying completed Customs Form 7512 shall identify the prematurely discharged or overcarried merchandise on the inward manifest of the importing carrier; and also identify the date and entry number of any entry made at the manifested port covering the merchandise to be returned, if known. If the district director is satisfied that the merchandise will be delivered to Customs custody at the manifested port before expiration of 90 days from the date of the entry identified, or 90 days from the date of the importing carrier's arrival at the manifested port when no entry is identified, the district director may approve the shipment under a special manifest.

(R.S. 251, as amended, sections 315, 484, 498, 624, 46 Stat. 722, as amended, 728, as amended, 759 (19 U.S.C. 66, 1315, 1484, 1498, 1624))

(T.D. 83-219)

Quarterly Rates of Exchange

The table below lists rates of exchange, in United States dollars for certain foreign currencies, which are based upon rates certified to the Secretary of the Treasury by the Federal Reserve of New York under provisions of section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Quarter Beginning: October 1, 1983 through December 31, 1983.

Country	Name of currency	U.S. dollars
Australia	Dollar	0.89790
Austria	Schilling	.054208
Belgium	Franc	.018786
Brazil	Cruzeiro	.001355
Canada	Dollar	.811359
China, P.R.	Renminbi yuan	.507537
Denmark	Krone	.105552
Finland	Markka	.176991
France	Franc	.125345
Germany	Deutsche mark	.381243
Hong Kong	Dollar	.114943
India	Rupee	.098039
Iran	Rial	N/A
Ireland	Pound	1.1886
Italy	Lira	.000629

Country	Name of currency	U.S. dollars
Japan	Yen	.004271
Malaysia	Dollar	.426076
Mexico	Peso	.006349
Netherlands	Guilder	.340948
New Zealand	Dollar	.65820
Norway	Krone	.136426
Philippines	Peso	.090498
Portugal	Escudo	.008065
Republic of So. Africa	Rand	.90220
Singapore	Dollar	.467946
Spain	Peseta	.006605
Sri Lanka	Rupee	.040984
Sweden	Krona	.127992
Switzerland	Franc	.473261
Thailand	Daht (Tical)	.043497
United Kingdom	Pound	1.4835
Venezuela	Bolivar	.078125

(LIQ-03-01 S:C:I)

Dated: October 3, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-220)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
September 1-2, 1983	$0.111857
Chile peso:	
September 1-2, 1983	.012346
Colombia peso:	
September 1-2, 1983	.012273

Greece drachma:	
September 1, 1983	.010811
September 2, 1983	.010753
Indonesia rupiah:	
September 1, 1983	.001016
September 2, 1983	.001013
Israel skekel:	
September 1-2, 1983	.017343
Peru sol:	
September 1-2, 1983	0.000512
South Korean won:	
September 1-2, 1983	.001265

(LIQ-03-01 S:C:I)

Dated: December 2, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-221)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

September 5, 1983 Holiday use rates for September 2, 1983.

Argentina peso:	
September 6, 1983	$0.111875
September 7, 1983	.089127
September 8, 1983	.089286
September 9, 1983	.085837
Chile peso:	
September 6-8, 1983	.012346
September 9, 1983	.012270
Colombia peso:	
September 6-8, 1983	.12228
September 9, 1983	.012151

Greece drachma:	
September 6, 1983	.010805
September 7, 1983	.010730
September 8, 1983	.010793
September 9, 1983	.010823
Indonesia rupiah:	
September 6-9, 1983	.001013
Israel shekel:	
September 6-9, 1983	0.017343
Peru sol:	
September 6-8, 1983	.000508
September 9, 1983	.000502
South Korea won:	
September 6-9, 1983	.001265

(LIQ-03-01 S:C:I)

Dated: September 9, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-222)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
September 2-16, 1983	$0.085837
Chile peso:	
September 12-15, 1983	.012270
September 16, 1983	.012225
Colombia peso:	
September 12-15, 1983	.012151
September 16, 1983	.012092
Greece drachma:	
September 12, 1983	.010823

September 13, 1983	.010770
September 14, 1983	.010768
September 15, 1983	.010770
September 16, 1983	.010758
Indonesia rupiah:	
September 12-16, 1983	.001013
Israel shekel:	
September 12-16, 1983	0.017343
Peru sol:	
September 12-15, 1983	.000502
September 16, 1983	.000498
South Korea won:	
September 12-14, 1983	.001265
September 15-16, 1983	.001264

(LIQ-03-01 S:C:I)

Dated: September 16, 1983.

Angela DeGaetano,
Chief,
Customs Information Exchange.

(T.D. 83-223)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs Officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
September 19-23, 1983	$0.085837
Chile peso:	
September 19-22, 1983	.012225
September 23, 1983	.012107
Colombia peso:	
September 19-22, 1983	.012092
September 23, 1983	.012034
Greece drachma:	
September 19, 1983	.010753

September 20, 1983	.010718
September 21, 1983	.010735
September 22, 1983	.010741
September 23, 1983	.010764
Indonesia rupiah:	
September 19-22, 1983	.001013
September 23, 1983	.001015
Israel shekel:	
September 19-22, 1983	0.016181
September 23, 1983	.016000
Peru sol:	
September 19-23, 1983	.000498
South Korea won:	
September 19-23, 1983	.001264

(LIQ-03-01 S:C:I)

Dated: September 23, 1983.

Angela DeGaetano,
Chief,
Customs Information Exchange.

(T.D. 83-224)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 22(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified uying rates for the dates and foreign currencies shown below. The ates of exchange, based on these buying rates, are published for he information and use of Customs officers and others concerned ursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, ubpart C).

Argentina peso:	
September 26-30, 1983	$0.085837
Chile peso:	
September 26-30, 1983	.012107
Colombia peso:	
September 26-29, 1983	.012034
September 30, 1983	.011976
Greece drachma:	
September 26, 1983	.010776
September 27, 1983	.010753

September 28, 1983	.010782
September 29, 1983	.010787
September 30, 1983	.010793
Indonesia rupiah:	
September 26–29, 1983	.001015
September 30, 1983	.001016
Israel shekel:	
September 26, 1983	0.015873
September 27–29, 1983	.015765
September 30, 1983	.015625
Peru sol:	
September 26–29, 1983	.000498
September 30, 1983	.000489
South Korea won:	
September 26–30, 1983	.001264
Taiwan dollar:	
September 26–30, 1983	.025368

(LIQ-03-01 S:C:I)

Dated: September 30, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-225)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-161 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Austria schilling:	
September 1, 1983	$0.052784
September 2, 1983	.052798
Belgium franc:	
September 1, 1983	.018467
September 2, 1983	.018443

Brazil cruzeiro:	
September 1-2, 1983	.001490
Denmark krone:	
September 1-2, 1983	.103082
France franc:	
September 1-2, 1983	.123305
Germany deutsche mark:	
September 1, 1983	0.370920
September 2, 1983	.370989
Hong Kong dollar:	
September 1, 1983	.132444
September 2, 1983	.131536
Ireland pound:	
September 1, 1983	1.1675
September 2, 1983	1.1665
Italy lira:	
September 1, 1983	.000622
September 2, 1983	.000623
Netherlands guilder:	
September 1, 1983	.331840
September 2, 1983	.331785
Portugal escudo:	
September 1, 1983	.008032
September 2, 1983	.008006
Sri Lanka rupee:	
September 1, 1983	.041051
September 2, 1983	.041034
Venezuela bolivar:	
September 1, 1983	.066667
September 2, 1983	.068966

(LIQ-03-01 S:C:I:)

Dated: September 2, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-226)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New

York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-161 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

September 5, 1983 Holiday use rates for September 2, 1983.

Austria schilling:	
September 6, 1983	$0.053128
September 7, 1983	.052917
Belgium franc:	
September 6, 1983	.018543
September 7, 1983	.018505
September 8, 1983	.018553
September 9, 1983	.018601
Brazil cruzeiro:	
September 6-9, 1983	.001460
Denmark krone:	
September 6, 1983	.103778
September 7, 1983	.103627
France franc:	
September 6, 1983	.123916
September 7, 1983	.123579
September 8, 1983	.123931
September 9, 1983	.124339
Germany deutsche mark:	
September 6, 1983	.373065
September 7, 1983	.372024
September 8, 1983	.373552
Hong Kong dollar:	
September 6, 1983	.130804
September 7, 1983	.129450
September 8, 1983	.130378
September 9, 1983	.130591
Ireland pound:	
September 6, 1983	1.1731
September 7, 1983	1.1702
September 8, 1983	1.1723
September 9, 1983	1.1725
Italy lira:	
September 6, 1983	.000625
September 7, 1983	.000623
September 8, 1983	.000625
September 9, 1983	.000627

Netherlands guilder:	
September 6, 1983	.333389
September 7, 1983	.332834
Portugal escudo:	
September 6, 1983	.008058
September 7, 1983	0.008019
September 8, 1983	.008035
September 9, 1983	.008052
Sri-Lanka rupee:	
September 6-9, 1983	.041034
Venezuela bolivar:	
September 6-8, 1983	.068966
September 9, 1983	.069444

(LIQ-03-01 S:C:I)

Dated: September 9, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information.

(T.D. 83-227)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-161 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Austria schilling:	
September 13, 1983	$0.053043
September 14, 1983	.052987
September 15, 1983	.053100
Belgium franc:	
September 13, 1983	.018512
September 14, 1983	.018457

September 15, 1983	.018512
September 16, 1983	.018570
Brazil cruzeiro:	
September 12-13, 1983	.001460
September 14-16, 1983	.001427
Denmark krone:	
September 13, 1983	.103869
September 14, 1983	.103756
France franc:	
September 13, 1983	.123495
September 14, 1983	.123305
September 15, 1983	.123640
September 16, 1983	.124224
Germany deutsche mark:	
September 13, 1983	.373134
September 14, 1983	.372204
September 15, 1983	.373204
Hong Kong dollar:	
September 12, 1983	.130378
September 13, 1983	.127470
September 14, 1983	.127348
September 15, 1983	.127226
September 16, 1983	.125313
Ireland pound:	
September 13, 1983	1.1700
September 14, 1983	1.1680
September 15, 1983	1.1700
September 16, 1983	1.1715
Italy lira:	
September 12, 1983	.000629
September 13, 1983	.000625
September 14, 1983	.000622
September 15, 1983	.000623
September 16, 1983	.000626
Netherlands guilder:	
September 13, 1983	.333556
September 14, 1983	.332834
September 15, 1983	.333834
Portugal escudo:	
September 12, 1983	.008078
September 13, 1983	.008035
September 14-15, 1983	.008010
September 16, 1983	.008026
Sri Lanka rupee:	
September 12-15, 1983	.041034
September 16, 1983	.040950

Venezuela bolivar:	
September 12-15, 1983	.069444
September 16, 1983	.074074

(LIQ-03-01 S:C:I)

Dated: September 16, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-228)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-161 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Austria schilling:	
September 23, 1983	$0.053121
Belgium franc:	
September 19, 1983	.018612
September 20, 1983	.018591
September 21, 1983	.018567
September 22, 1983	.018471
September 23, 1983	.018632
Brazil cruzeiro:	
September 19-21, 1983	.001427
September 22-23, 1983	.001391
Denmark krone:	
September 22, 1983	.103869
France franc:	
September 19, 1983	.124425
September 20, 1983	.123954
September 21, 1983	.124085
September 22, 1983	.123289

Germany deutsche mark:	
September 22, 1983	.372787
Hong Kong dollar:	
September 19, 1983	.119048
September 20, 1983	.120482
September 21, 1983	.122399
September 22, 1983	.121212
September 23, 1983	.114943
Ireland pound:	
September 19, 1983	1.1772
September 20, 1983	1.1768
September 21, 1983	1.1750
September 22, 1983	1.1680
September 23, 1983	1.1780
Italy lire:	
September 19, 1983	.000627
September 20, 1983	.000624
September 21, 1983	.000624
September 22, 1983	.000615
September 23, 1983	.000622
Netherlands guilder:	
September 22, 1983	.333167
Portugal escudo:	
September 19, 1983	.008045
September 20, 1983	.008052
September 21, 1983	.008039
September 22, 1983	.008026
September 23, 1983	.008035
Sri Lanka rupee:	
September 19-22, 1983	.040950
September 23, 1983	.04[illegible]933
Venezuela bolivar:	
September 19, 1983	.074074
September 20-22, 1983	.074627
September 23, 1983	.076336

(LIQ-03-01 S:C:I)

Dated: September 23, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-229)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-161 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Belgium franc:	
September 26, 1983	$0.018657
September 27, 1983	.018601
September 28, 1983	.018664
Brazil cruzeiro:	
September 26-28, 1983	.001391
September 29-30, 1983	.001355
France franc:	
September 27, 1983	.124332
Hong Kong dollar:	
September 26, 1983	.119760
September 27, 1983	.119048
September 28, 1983	.121212
September 29, 1983	.123153
September 30, 1983	.122699
Ireland pound:	
September 27, 1983	1.1758
Italy lira:	
September 26, 1983	.000624
September 27, 1983	.000623
September 28, 1983	.000625
September 29, 1983	.000625
September 30, 1983	.000627
Mexico peso:	
September 29, 1983	.006329
Portugal escudo:	
September 26, 1983	.008065
September 27, 1983	.008032
September 28, 1983	.008058
September 29, 1983	.008029
September 30, 1983	.008052

Sri Lanka rupee:	
September 26–29, 1983	040933
September 30, 1983	.040984
Venezuela bolivar:	
September 26–29, 1983	.076336
September 30, 1983	.078125

(LIQ-03-01 S:C:I)

Dated: September 30, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-230)

Bonds

Approval and discontinuance of consolidated aircraft bonds (air carrier blanket bonds), Customs Form 7605

The following consolidated aircraft bonds have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: October 28, 1983.

Name of principal and surety	Date term commences	Date of approval	Filed with district director/area director/amount
Air Jamaica Limited (A Foreign Corp. corporated under the laws of Jamaica), 72-76 Harbour St., Kingston, Jamaica, West Indies; American Motorists Insurance Co.	Sept. 30, 1983	Sept. 30, 1983	New York Seaport $100,000

Name of principal and surety	Date term commences	Date of approval	Filed with district director/area director/amount
he foregoing principal has been designated as a carrier of bonded merchandise.			
ominicana de Aviacion C. por A. (Dominicana Airlines), Edificio San Rafael, Leopoldo Navarro, Santo Domingo, Dominican Republic; American Motorists Ins. Co. (PB 6/3/81) D 9/7/83 [1] he foregoing principal has not been designated as a carrier of bonded merchandise.	Sept. 8, 1983	Sept. 27, 1983	J.F.K. Airport $100,000
t Way, Inc., Box 816, Ypsilanti, MI; Ins. Co. of North America. he foregoing principal has not been designated as a carrier of bonded merchandise.	Sept. 19, 1983	Sept. 29, 1983	Detroit, MI $100,000
use Air Corp. (a TX Corp.), 3300 West Mockingbird Lane, Dallas, TX; Aetna Ins. Co. (a CT Corp.). he foregoing principal has not been designated as a carrier of bonded merchandise.	Sept. 28, 1983	Sept. 28, 1983	Houston, TX $100,000

[1] Surety is National Union Fire Insurance Company of Pittsburgh, PA.

BON-3-01
216382

EDWARD B. GABLE, Jr.,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-231)

Reimbursable Services—Excess Cost of Preclearance Operations

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., November 2, 1983.

Notice is hereby given that pursuant to Section 24.18(d), Customs egulations (19 CFR 24.18(d)), the biweekly reimbursable excess osts for each preclearance installation are determined to be as set orth below and will be effective with the pay period beginning No- ember 13, 1983.

Installation	Biweekly excess cost
Montreal, Canada	$20,727
Toronto, Canada	37,208
Kindley Field, Bermuda	6,196
Nassau, Bahama Islands	19,067
Vancouver, Canada	15,011
Winnipeg, Canada	3,085
Freeport, Bahama Islands	8,520
Calgary, Canada	8,340
Edmonton, Canada	5,853

JOHN L. HEISS,
Acting Comptroller.

[Published in the Federal Register, November 15, 1983 (48 FR 52003)]

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19 CFR Part 111

(T.D. 83-232)

Change of Policy Relating to Customhouse Brokers' Charges for Incidental Services

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Change of policy.

SUMMARY: This document changes, for one year, Customs policy with regard to the results of a failure by a customhouse broker to provide a client an intemized accounting of the cost of any incidential service the broker may arrange for the client. Formerly, any variance between the amounts actually expended for these items and the broker's statement to his client which was not fully explained in the records required to be maintained by the broker for Customs inspection and audit, as well as the reasonableness of the variance, was considered to be an improper withholding from the client of information relating to Customs business and a failure to keep complete records. Under this policy change, Customs will no longer routinely inquire into the reasonableness of the charges for incidental services arranged by a broker for a client. As noted above, the policy change will be effective for one year, after which Customs will evaluate its experience under the modified policy and decide whether to make the policy change permanent. The public is requested to submit any applicable comments to Customs during that year. Those comments will be considered before a final decision in the matter is made. The change in policy is being made in order to narrow Customs role regarding brokers to those activities

vhich are exclusively Customs-related. In addition, the change will ermit Customs to utilize its limited resources more effectively. For Customs to attempt to penetrate modern day business relationships etween broker and client, compounded by current day technologi-ally advanced automated accounting systems, is not considered an effective and efficient utilization of its limited resources. Finally, he change in policy is consistent with the Administration's posture oncerning governmental regulation of private business transac-ions.

EFFECTIVE DATE: The policy change is effective November 8, 983. Public comment on the change must be received on or before November 8, 1984.

ADDRESS: Written comments (preferably in triplicate) should be ddressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Raymond F. Mul-ern, Regulatory Audit Division, U.S. Customs Service, 1301 Con-titution Avenue NW., Washington, D.C. 20229 (202-566-2812).

SUPPLEMENTARY INFORMATION:

BACKGROUND

A "customhouse broker" is licensed by the Customs Service to ransact Customs business on behalf of his clients. The Customs Service is authorized by section 641, Tariff Act of 1930, as amended 19 U.S.C. 1641), and Part 111, Customs Regulations (19 CFR Part 11), to license brokers and supervise their activities.

A broker's bill to his client often includes charges for "inciden-ial services", such as freight, storage, cartage, cooperage, dock and messenger service, insurance, or bonds, which are arranged by the roker on behalf of his client.

These incidential services are in addition to the primary Cus-oms-related function of entry documentation and duty payment performed by brokers for their clients.

CURRENT POLICY: TREASURY DECISIONS 78-308

Under Treasury Decision 78-308, published in the Federal Regis-er on a September 15, 1978 (43 FR 41192), the records maintained y brokers for Customs inspection and audit, are required to set orth an itemized accounting of the costs incurred by them for inci-lential services. Customs reviews those records and makes limited nquiries into the reasonableness of such charges billed by brokers o their clients only in cases in which:

1. The difference between the cost of an incidental service to the roker and the amount billed to the client has not been identified itemized) separately on billings to the client; or

2. The client has not been provided, in advance of importation, with a written itemized quotation of the charges for the incidental service, following which the client has authorized the broker to handle the importation.

If a broker is unable to justify, in either of the above cases, substantial or "unreasonable" differences in billings between clients for like services, based on normal, accepted business practices, such as volume discounts, special circumstances, or the like, those differences would constitute a discrepancy. District directors of Customs, after a determination that a charge is unreasonable, are required to notify the broker of the apparent discrepancy and recommend an appropriate change. Differences between costs incurred by a broker for incidential services and amounts billed to clients for such services which are not itemized in the broker's records, constitute a failure to keep complete records (see sections 111.21 and 111.22, Customs Regulations (19 CFR 111.12, 111.22)).

Reasons for Change in Policy

Customs has determined that a policy change is necessary because the relationship between a broker and client in regard to acceptance of charges is inherently the responsibility of the client acting as a normal prudent businessman. The change in policy is being made in order to narrow Customs role regarding brokers to those activities which are exclusively Customs-related, and will permit Customs to utilize its limited resources more effectively.

Accordingly, Customs will continue to require that brokers maintain as part of their records of Customs transactions available for Customs inspection and audit, an itemized accounting of the costs incurred by them for incidential services. However, Customs now will inquire into the reasonableness of a charge for an incidential service that a broker bills his client only when a specific complaint about a charge is received from a broker's client, or in those cases where Customs believes that an inquiry is necessary to substantiate or disapprove an allegation (whether of a specific or general nature) or a belief of possible misconduct on the part of a broker.

Change of Policy

Brokers shall continue to maintain for Customs inspection records of the costs incurred by them for "incidential services", such as freight, storage, cartage, cooperage, dock and messenger service, insurance, or bonds, arranged by the brokers for their clients, for which the brokers bill the clients. However, Customs will inquire into the reasonableness of brokers' charges to their clients for an incidental service only when (1) a complaint of unreasonableness about a specific charge is received from a broker's client, or (2) an inquiry is considered by Customs to be necessary to substantiate or disapprove an allegation (whether of a specific or general nature) of a belief of possible misconduct on the part of a broker.

This change of policy will be effective for one year, during which Customs invites public comment on the change. At the end of the period, Customs will consider any written comments received and evaluate its experience under the policy change in accord with the criteria listed below before deciding whether to make the change permanent. The criteria that will be used to evaluate the policy change will include, but are not limited to, the following:

1. Number of complaints received from the public during the one year period;
2. Results of inquiries performed as a direct consequence of the complaints received;
3. Public comments received during the one year period; and
4. Results of audits performed of selected brokers to determine the degree of cost impact to the importing public. The degree of cost impact will be based on billed amounts for incidental services during the test period as opposed to billed amounts during the preceding year.

COMMENTS

Before making this policy change permanent, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington D.C. 20229.

AUTHORITY

This policy change is made under the authority of R.S. 251, as amended, secs. 624, 641, 46 Stat. 759, as amended (5 U.S.C. 301; 19 U.S.C. 66, 1624, 1641).

EXECUTIVE ORDER 12291

The change of policy does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Therefore, no regulatory impact analysis has been prepared.

INAPPLICABILITY OF NOTICE AND DELAYED EFFECTIVE DATE

Because the document is a general statement of policy, it has been determined that pursuant to 5 U.S.C. 553 (b)(A) and (d)(2), the notice and delayed effective date provisions of 5 U.S.C. 553 (b) and d) are not applicable.

LIST OF SUBJECTS IN 19 CFR PART 111

Administrative practice and procedure, Brokers, Customs duties and inspection.

DRAFTING INFORMATION

The principal authors of this document were Raymond F. Mulhern, Regulatory Audit Division, and Todd J. Schneider, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: September 6, 1983.

WILLIAM VON RAAB,
Commissioner of Customs.

[Published in the Federal Register, November 8, 1983 (48 FR 51288)]

(T.D. 83-233)

Bonds

Approval and discontinuance of Carrier's Bonds, Customs Form 3587

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: November 2, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Ace-Doran Hauling and Rigging Co., 1601 Blue Rock St., Cincinnati, OH; motor carrier; Aetna Casualty and Surety Co. (PB 10/1/81) D10/25/83 [1]	Oct. 1, 1983	Oct. 25, 1983	Cleveland, OH $100,000
Action Transit Co., P.O. Box 884, Mooresville, NC; motor carrier; The Hanover Ins. Co.	Aug. 26, 1983	Oct. 6, 1983	New Orleans, LA $25,000
Adcor Trucking, Inc., 2400 Air Park Rd., North Charleston, SC; motor carrier; Fidelity and Deposit Co. of MD	Sept. 1, 1983	Sept. 19, 1983	Charleston, SC $50,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
American Freight System, Inc., 9393 W. 110th St., Overland Park, KS; motor carrier; Safeco Ins. Co. of America (PB 8/29/79) D 10/3/83 [2]	Aug. 29, 1983	Oct. 3, 1983	Chicago, IL $30,000
Arrow Express, Inc., 2043 Airport Dr., Austin Straubel Field, Green Bay, WI; motor carrier; U.S. Fidelity & Guaranty Co. D 11/1/83	Aug. 17, 1982	Oct. 14, 1982	Milwaukee, WI $25,000
Arrow Trucking Co., P.O. Box 7280, Tulsa, OK; motor carrier; The Aetna Casualty & Surety Co. (PB 5/6/76) D 9/23/83 [3]	Sept. 21, 1983	Sept. 23, 1983	Houston, TX $25,000
J. C. Bangerter & Sons, Inc., 1265 North Main, Bountiful, UT; motor carrier; Commercial Union Ins. Co. D 9/16/83	July 28, 1981	Sept. 11, 1981	San Francisco, CA $25,000
W. L. Bartley, Inc., Greenville, ME; motor carrier; St. Paul Fire & Marine Ins. Co.	Aug. 3, 1983	Sept. 19, 1983	St. Albans, VT $25,000
Bay Transportation Co., Inc. and/or Georgia, Florida, Alabama Transportation Co., Inc., 1541 Reeves St., Dothan, AL; motor carrier; National Surety Corp. (PB 4/19/77) D 9/4/83 [4]	Apr. 19, 1983	Sept. 5, 1983	Mobile, AL $25,000
Briggs Transportation Co., 2785 North Fairview Ave., St. Paul, MN; motor carrier; Continental Western Ins. Co.	Sept. 7, 1983	Oct. 3, 1983	Minneapolis, MN $25,000
C & J Commercial Driveaway Co., Inc., 30800 Telegraph Rd.; Suite 4900, Birmingham, MI; motor carrier; American Casualty Co. of Reading, PA (PB 10/12/77) D 10/12/83 [5]	Sept. 6, 1983	Oct. 14, 1983	Detroit, MI $25,000
CRST, Inc., 3930 16th Ave., Cedar Rapids, IA; motor carrier; The Travelers Indemnity Co.	Sept. 15, 1982	Sept. 29, 1983	Chicago, IL $25,000
Camion's Inc., 744 Forestdale Blvd., Birmingham, AL; motor carrier; Employers Ins. of Wausau, a Mutual Co.	Sept. 1, 1983	Sept. 26, 1983	Mobile, AL $25,000
Canadian Pacific Transport (US) Ltd., 150 Commissioners St., Toronto, Ontario, Canada; motor carrier; The Continental Ins. Co. (PB 2/18/82) D 10/10/83 [6]	Feb. 18, 1983	Oct. 11, 1983	Ogdensburg, NY $200,000
Cast North America '83 (Trucking) Ltd., 5500 Notre Dame West, Montreal, Quebec, Canada; motor carrier; Fireman's Fund Ins. Co.	Sept. 26, 1983	Oct. 17, 1983	Ogdensburg, NY $50,000
John D. Collier, P.O. Box 16873, San Antonio, TX; motor carrier; Lawyers Surety Corp.	Aug. 5, 1983	Sept. 14, 1983	Laredo, TX $25,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Columbia Van Lines Inc., 631 S. Pickett St., Alexandria, VA; motor carrier; Mid-Century Ins. Co. D 8/3/82	Jan. 6, 1972	Jan. 18, 1972	Baltimore, MD $25,000
Consolidated Transportation Systems, Inc., 1700 S. Highland Ave., P.O. Box 25658, Baltimore, MD; motor carrier; Ins. Co. of North America	Sept. 13, 1983	Sept. 14, 1983	Baltimore, MD $25,000
Constable Transport Limited, 650 Allanburg Rd., Thorold, Ontario, Canada; motor carrier; Royal Ins. Co. of America (PB 7/9/68) D 9/13/83 [7]	Aug. 1, 1983	Sept. 13, 1983	Buffalo, NY $25,000
Dalor Transit Inc., 5601 W. Ryan Rd., Franklin, WI; motor carrier; The North River Ins. Co.	Aug. 25, 1983	Sept. 26, 1983	Milwaukee, WI $25,000
Francisco A. Delgado, Inc., Box 7466, Ponce, PR; motor carrier; Insurance Co. of North America (PB 8/23/82) D 9/24/83	July 1, 1983	Sept. 24, 1983	San Juan, PR $25,000
Robert W. Denton, d/b/a Spirit Trucking, 8700 S. Wolf Rd., Hinsdale, IL; motor carrier; Great American Ins. Co.	Oct. 18, 1983	Oct. 18, 1983	Chicago, IL $35,000
Eagle Trucking Co., P.O. Box 471, Kilgore, TX; motor carrier; Trinity Universal Ins. Co. D 10/4/83	Feb. 24, 1982	Feb. 25, 1982	Houston, TX $25,000
Ellex Transportation, Inc., P.O. Box 9637, Tulsa, OK; motor carrier; The Aetna Casualty & Surety Co. D 9/27/83	Jan. 18, 1983	March 1, 1983	Houston, TX $50,000
Expedited Air Service, Inc., P.O. Box 40, Cudahy, WI; motor carrier; The Continental Ins. Co. D 10/8/83	July 28, 1982	Oct. 1, 1982	Milwaulkee, WI $25,000
Flex-Mor Industries Ltd., Bolton, Ontario, Canada; motor carrier; Old Republic Ins. Co.	Oct. 20, 1983	Oct. 21, 1983	Buffalo, NY $40,000
Georgia, Florida, Alabama Transportation Co., Inc.—see Bay Transportation Co., Inc.			
Getter Trucking Inc., P.O. Box 1635, Billings, MT; motor carrier; Safeco Ins. Co. of America	Sept. 12, 1983	Sept. 27, 1983	Great Falls, MT $25,000
Go Transport & Delivery Service, Inc., 6405 LaPort Rd., Houston, TX; motor carrier; St. Paul Fire & Marine Ins. Co. D 10/4/83	Oct. 15, 1981	Oct. 29, 1981	Houston, TX $50,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Great Western Airlines, Inc., Route 5, Riverside Airport, Tulsa, OK; air carrier; St. Paul Fire & Marine Ins. Co. D 10/11/83	Dec. 9, 1977	Jan. 4, 1978	Chicago, IL $25,000
H.M.D. Transport, Inc., 370 West First St., South Boston, MA; motor carrier; Peerless Ins. Co. D 10/3/83	Jan. 11, 1982	July 13, 1982	Boston, MA $25,000
Hockersmith & Sons, Inc., d/b/a Hockersmith Transportation Services, 230 North West F. St., P.O. Box 1740, Richmond, IN; motor carrier; Union Indemnity Ins. Co. of NY (PB 11/1/82) D 9/30/83 [8]	Sept. 21, 1983	Sept. 30, 1983	Cleveland, OH $50,000
Hockersmith Transportation Services—see Hockersmith & Sons, Inc.			
Z. H. Hurt Enterprises d/b/a Mex-Cal Truckline, 1840 Harrison St., National City, CA; motor carrier; Washington International Ins. Co.	Sept. 22, 1983	Oct. 7, 1983	San Diego, CA $50,000
Indianhead Truck Line, Inc., 1947 West County Road C., St. Paul, MN; motor carrier; Northwestern National Ins. Co. of Milwaukee, WI (PB 10/4/80) D 10/4/83 [9]	Oct. 4, 1983	Oct. 4, 1983	Minneapolis, MN $35,000
Inland Transport Int'l Inc., 2089 E. Willow St., Signal Hill, CA; motor carrier; United States Fidelity & Guaranty Co.	Sept. 22, 1983	Oct. 20, 1983	Los Angeles, CA $50,000
Interstate Carriers Co-op, 3605 N. Main St., Fort Worth, TX; motor carrier; Peerless Ins. Co. D 10/4/83	July 23, 1975	Nov. 11, 1975	Houston, TX $50,000
Jay Lines, Inc., P.O. Box 61467, DFW Airport, TX; motor carrier; St. Paul Fire & Marine Ins. Co. (PB 1/5/81) D 8/2/83 [10]	Nov. 1, 1982	Sept. 7, 1983	New Orleans, LA $25,000
Jet Services, Inc., 1946 S. First St., Milwaukee, WI; motor carrier; Continental Ins. Co. D 11/6/83	July 1, 1980	Aug. 6, 1980	Milwaukee, WI $25,000
Kartran Inc., 3310 Bobbie Lane, Garland, TX; motor carrier; St. Paul Fire & Marine Ins. Co. D 10/5/83	Jan. 7, 1981	Jan. 7, 1981	Dallas/ Fort Worth, TX $25,000
Kenney, Inc., P.O. Box 217, Humansville, MO; motor carrier; Old Republic Ins. Co.	Sept. 14, 1983	Oct. 18, 1983	St. Louis, MO $50,000
Loop Fleet Service, Inc., 1776 North Commerce St., Milwaukee, WI; motor carrier; Sentry Insurance, a Mutual Co. (PB 10/22/81) D 10/22/83 [11]	Aug. 15, 1983	Oct. 23, 1983	Milwaukee, WI $25,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
M & M Drayage, Inc., P.O. Box 15897, Houston, TX; motor carrier; Trinity Universal Ins. Co.	July 29, 1983	Sept. 12, 1983	Houston, TX $50,000
Toby Martin Oilfield Trucking, Inc., P.O. Box PP, Crosby, TX; motor carrier; Washington International Ins. Co. D 10/4/83	Nov. 3, 1980	Nov. 4, 1980	Houston, TX $25,000
Mayfield Transfer Co., Inc., 3200 W. Lake St., Melrose Park, IL; motor carrier; Safeco Ins. Co. of America	Aug. 29, 1983	Sept. 28, 1983	Chicago, IL $25,000
Merchant-Stor Dor Freight System, Inc. (an IL Corp.), 747 Third Ave., New York, NY; freight forwarder; American Motorists Ins. Co.	Sept. 2, 1983	Oct. 12, 1983	Chicago, IL $200,000
Mex-Cal Truckline—see Z. H. Hurt Enterprises			
Millstead Van Lines, Inc., P.O. Drawer 878, Bartlesville, OK; motor carrier; St. Paul Fire & Marine Ins. Co. D 10/4/83	July 10, 1974	Oct. 29, 1974	Houston, TX $25,000
Minn-Dak Transport, Inc., South Highway 59, Pelican Rapids, MN; motor carrier; State Surety Co.	Aug. 25, 1983	Sept. 16, 1983	Duluth, MN $50,000
Mobile Express, Inc., 6000 Gum Springs Rd., Longview, TX; motor carrier; The Continental Ins. Co.	Apr. 6, 1983	Oct. 12, 1983	Houston, TX $25,000
K. G. Moore Trucking, Inc., 86 Washington St., U.S. Route #1, P.O. Box 1825, Plainville, MA; motor carrier; Washington International Ins. Co. (PB 7/29/75) D 9/28/83 [1,2]	Aug. 8, 1983	Sept. 28, 1983	Boston, MA $50,000
Motor Express, Inc., P.O. Box 604, Edinburg, TX; motor carrier; Washington International Ins. Co. D 10/4/83	Apr. 16, 1981	Apr. 16, 1981	Galveston, TX $25,000
Multi-Modal Transports, Inc., 121 W. McLemore; P.O. Box 16122, Memphis, TN; motor carrier; Lawyers Surety Corp.	Sept. 27, 1983	Oct. 21, 1983	New Orleans, LA $25,000
Nationwide Auto Transporters, Inc., 140 Sylvan Ave., Englewood Cliffs, NJ; motor carrier; Peerless Ins. Co. D 10/5/83	May 10, 1978	May 17, 1978	Baltimore, MD $50,000
Oehlke Truck Line, P.O. Box 151, Rosenburg, TX; motor carrier; The Aetna Casualty and Surety Co.	Sept. 15, 1983	Oct. 6, 1983	Houston, TX $25,000
P-Y Transport, Inc., 2393 W. Market St., York, PA; motor carrier; Fidelity and Deposit Co. of MD	July 14, 1983	Sept. 14, 1983	Philadelphia, PA $25,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Pem Air Limited, RR #6, Pembrook, Pembroke Airport, Pembroke, Ontario, Canada; air carrier; Fireman's Fund Ins. Co.	Sept. 20, 1983	Oct. 5, 1983	Buffalo, NY $25,000
Port City Drayage & Port City Express, Inc., 713 Merchants National Bank Bldg., P.O. Box 23, Mobile, AL; motor carrier; Liberty Mutual Ins. Co.	Sept. 14, 1983	Sept. 29, 1983	Mobile, AL $25,000
Port City Express, Inc.—see Port City Drayage			
Pride Transport Co., P.O. Box 3237, Abilene, TX; motor carrier; National Union Fire Ins. Co. D 10/4/83	June 25, 1976	July 29, 1976	Galveston, TX $25,000
Refrigerated Transport, Inc. of Texas, 318 Cadiz St., Dallas, TX; motor carrier; St. Paul Fire & Marine Ins. Co. D 10/4/83	Apr. 10, 1973	Apr. 25, 1973	Houston, TX $25,000
Jose E. Rios-Mulero, P.O. Box 5783, San Juan, PR; motor carrier; St. Paul Fire & Marine Ins. Co.	Sept. 1, 1983	Oct. 6, 1983	San Juan, PR $25,000
Scheduled Truckways, Inc., Sellers & O'Brien Sts., Kearny, NJ; motor carrier; Federal Ins. Co.	June 2, 1983	Sept. 23, 1983	Newark, NJ $50,000
Smith Hardware Inc. d/b/a Smith Oil Co., Main St., Jackman, ME; motor carrier; St. Paul Fire & Marine Ins. Co.	Oct. 3, 1983	Oct. 13, 1983	St. Albans, VT $25,000
Smith Oil Co.—see Smith Hardware Inc.			
Spirit Trucking—see Robert W. Denton			
States Marine Corporation of Delaware, 90 Broad St., New York, NY; motor carrier; Ins. Co. of North America D 10/4/83	Nov. 10, 1950	Nov. 16, 1950	Galveston, TX $25,000
Jimmy Stein Motor Lines, Inc., P.O. Box 2286, Mobile, AL; motor carrier; Reliance Ins. Co.	Sept. 1, 1983	Sept. 20, 1983	Mobile, AL $25,000
Stevens Transport, 3020 E. Highway 80, Mesquite, TX; motor carrier; United States Fire Ins. Co. (PB 10/8/80) D 10/8/83 [13]	Oct. 8, 1983	Oct. 8, 1983	Dallas/Fort Worth, TX $25,000
Suburban Motor Freight, Inc., 1100 King Ave., Columbus, OH; motor carrier; United States Fidelity & Guaranty Co. (PB 8/23/72) D 10/4/83 [14]	Aug. 23, 1983	Oct. 4, 1983	Detroit, MI $50,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Sun Devil Air Freight, Inc., 2050 East University Dr., Phoenix, AZ; motor carrier; Continental Ins. Co.	Sept. 16, 1983	Sept. 26, 1983	Nogales, AZ $25,000
Transport McNeill-McGrath Inc., 2525 St. Clair Ave. West, Toronto, Ontario, Canada; motor carrier; St. Paul Fire & Marine Ins. Co.	Sept. 1, 1983	Sept. 26, 1983	Buffalo, NY $25,000
Trucker's Inc., 4316 S. Main St., Stafford, TX; motor carrier; National Surety Corp. D 10/4/83	Apr. 25, 1979	May 18, 1979	Houston, TX $25,000
United Brands Co., P.O. Box 62, Galveston, TX; motor carrier; American Home Assurance Co. of NY D 9/14/83	Jan. 21, 1977	Mar. 16, 1977	Galveston, TX $25,000
Ralph Walker Inc., P.O. Box 3222, Jackson, MS; 625 Old Hwy 49S, Richland, MS; motor carrier; Western Surety Co.	Sept. 26, 1983	Oct. 20, 1983	New Orleans, LA $25,000
Western Lines, Inc., P.O. Box 1145, Houston, TX; motor carrier; United States Fidelity & Guaranty Co. D 10/4/83	May 1, 1980	July 16, 1980	Houston, TX $50,000
White Star Trucking Inc., 1750 Southfield Rd., Lincoln Park, MI; motor carrier; The Ohio Casualty Ins. Co. (PB 8/3/72) D 9/23/83 [15]	Aug. 24, 1983	Sept. 23, 1983	Detroit, MI $50,000
Wilson Moving & Storage Co., Inc., 885 Bailey Ave., Buffalo, NY; motor carrier; St. Paul Fire & Marine Ins. Co.	Sept. 6, 1983	Oct. 3, 1983	Buffalo, NY $40,000
Worster Motor Lines, P.O. Box 110, North East, PA; motor carrier; Washington International Ins. Co. (PB 3/2/83) D 10/6/83 [16]	Oct. 6, 1983	Oct. 12, 1983	Buffalo, NY $25,000

[1] Surety is United States Fidelity & Guaranty Co.
[2] Surety is American Casualty Co. of Reading, PA.
[3] Surety is St. Paul Fire & Marine Ins. Co.
[4] Principal is Bay Transportation Co., Inc.
[5] Principal is C & J Commercial Driveaway, Inc. Surety is Aetna Casualty & Surety Co
[6] Principal is Smith Transport (US) Ltd.
[7] Surety is Globe Indemnity Co.
[8] Principal is Hockersmith & Sons, Inc. d/b/a Hockersmith Air Freight.
[9] Surety is Insurance Co. of North America.
[10] Surety is National Surety Corp.
[11] Surety is The Ohio Casualty Ins. Co.
[12] Principal is K. G. Moore, Inc. Surety is American Employers' Inc. Co.
[13] Surety is Transamerica Ins. Co.
[14] Surety is Hartford Accident and Indemnity Co.
[15] Surety is Fidelity & Deposit Co. of MD.
[16] Principal is Worster Motor Lines Inc. Surety is Protective Ins. Co.

BON-3-03

EDWARD B. GABLE, Jr.,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-234)

Petitioner's Desire To Contest Decision Denying Domestic Interested Party Petition Requesting Reclassification of Certain Glassware

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of petitioner's desire to contest decision on domestic interested party petition.

SUMMARY: This document advises the public of a domestic interested party's desire to contest Customs decision denying its petition requesting reclassification of certain "specially tempered" imported glassware as "other" glassware at a higher rate of duty. The petitioner has advised Customs of its intention to file an action in the U.S. Court of International Trade.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lindmeier, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-2938).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On July 31, 1981, a petition was filed with Customs under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), by Libbey Glass Division of Owens-Illinois, Inc. ("petitioner"), an American manufacturer of glassware. The petitioner contended that certain glassware imported by J. G. Durand International ("importer") which has been classified under the provision for glassware which is "specially tempered," in item 546.38, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), is not "specially tempered," and thus is properly classifiable under the provisions for "other" glassware, according to value, in items 546.52 through 546.68, TSUS.

A notice of receipt of the petition was published in the Federal Register on November 12, 1981 (46 FR 55822), advising the public of petitioner's contention and requesting comments on the petition. A notice of extension of time for comment was published in the Federal Register on December 7, 1981 (46 FR 59690). Of the 37 comments received in response to the notice, 34 expressed general approval of the petition and requested its adoption.

DECISION ON PETITION AND NOTICE OF PETITIONER'S DESIRE TO CONTEST

After careful analysis of the comments received in response to the notice and further review of the matter, Customs published in the Federal Register on July 25, 1983 (48 FR 33792), Treasury Decision 83-154 granting the petition in part, and denying it in part. As stated on page 33794 of that document:

> "* * * However, as to the imported glassware designated 'Artic Stemware', to include 'Champagne', 'Wine', and 'Goblet', and 'Artic Tumblers', to include 'Old Fashioned', 'Hi Ball', and 'Beverage', the petition is denied. That merchandise has been properly classified under the provision for glassware which is 'pressed and toughened (specially tempered)' in item 546.38, TSUS."

A document correcting the effective date of the decision to September 10, 1983, *i.e.*, the thirty-first day after the date of publication of the decision in the Customs Bulletin, appeared in the Federal Register on August 9, 1983 (48 FR 36238).

In response to Customs decision to deny the petition in part, the petitioner filed on August 19, 1983, a letter giving notice of its desire to contest Customs decision in accordance with section 516(c), Tariff Act of 1930, as amended (19 U.S.C. 1516(c)), and section 175.23, Customs Regulations (19 CFR 175.23).

Customs has reconsidered the matter in light of petitioner's letter, but remains of the opinion that its July 25, 1983, decision is correct. That decision will stand in the absence of a contrary judgment rendered by the U.S. Court of International Trade or the U.S. Court of Appeals for the Federal Circuit.

AUTHORITY

This notice is published under the authority of section 516(c), Tariff Act of 1930, as amended (19 U.S.C. 1516(c)), and section 175.24, Customs Regulations (19 CFR 175.24).

DRAFTING INFORMATION

The principal author of this document was Todd J. Schneider, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: October 14, 1983.

WILLIAM VON RAAB,
Commissioner of Customs.

[Published in the Federal Register, November 14, 1983 (48 FR 51884)]

19 CFR Part 12

(T.D. 83-235)

Imported Electronic Products: Entry and Release

GENCY: U.S. Customs Service, Department of the Treasury.

CTION: Final rule.

UMMARY: This document amends the Customs Regulations re-
ting to requirements for the entry and release of imported elec-
onic products. The changes update and conform the regulations
current procedures and the statutory and regulatory require-
ents administered by Customs for the National Center for De-
ces and Radiological Health of the Food and Drug Administra-
on. Specifically, the document provides that:

1. Electronic products offered for importation into the customs territory of the United States are subject to standards prescribed in the Public Health Service Act, as amended, and not the Radiation Control for Health and Safety Act of 1968. This corrects an erroneous statutory reference in the Customs Regulations.

2. An electronic product offered for importation into the customs territory of the United States may be excepted from conforming to the standards of the Public Health Safety Act, as amended, if the importer by declaration affirms that the product either was manufactured before the date the standards became effective, or is being imported for the purpose of research, investigations, studies, demonstrations or training.

FFECTIVE DATE: This document is effective on December 19,
983.

OR FURTHER INFORMATION CONTACT: Legal Aspects: Dar-
ell D. Kast, Entry Procedures and Penalties Division (202-566-
765); Operational Aspects: Harrison C. Feese, Duty Assessment Di-
ision (202-566-6651), U.S. Customs Service, 1301 Constitution
venue, NW., Washington, D.C. 20229.

UPPLEMENTAL INFORMATION:

BACKGROUND

Sections 12.90 and 12.91, Customs Regulations (19 CFR 12.90,
2.91), set forth the requirements for entry and release of electron-
products offered for importation into the United States. The re-
uirements are based on standards prescribed by the Food and
rug Administration (FDA) under section 358 of the Public Health
ervice Act (42 U.S.C. 201 *et seq.*), as amended by the Radiation
ontrol for Health and Safety Act of 1968 (42 U.S.C. 263b *et seq.*).

Section 12.90 presently provides that "the Act" as referred to in
ection 12.91, means the Radiation Control for Health and Safety
ct of 1968.

In addition, section 12.91 now requires that the importer or consignee of electronic products by declaration assert that the products either (1) conform to the standards of section 358 of the Public Health Service Act, as amended (42 U.S.C. 263(f)), or (2) will be brought into compliance with the standards unless intended solely for export.

In order to update the regulations and bring them into conformity with current Customs procedures as well as FDA requirements, a notice proposing to amend sections 12.90 and 12.91 was published in the Federal Register on May 5, 1983 (48 FR 20243).

The proposed amendment to section 12.90 provided that "the Act" as referred to in section 12.91 refers to the Public Health Service Act, as amended (42 U.S.C. 201 *et seq.*), and not the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263b-263n). The notice also proposed to correct the statutory reference in section 12.90 to the Radiation Control for Health and Safety Act of 1968.

The proposed amendment to section 12.91 would modify the language of the two existing declarations in that section. It also proposed to add two alternative declarations whereby the importer of record may affirm that the products either (1) were manufactured before the date the standards became effective, or (2) are being imported for the purpose of research, investigations, studies, demonstrations, or training. Current citation of authority for section 12.91 was set forth as well in the proposal.

No comments were received in response to the notice of proposed rulemaking. However, based upon Customs review one minor change has been made to the document. The last sentence of section 12.91(e) has been revised to read:

> "If a special exemption is granted after the product has been imported under bond in accordance with paragraph (d) of this section, the bond conditions pertaining to the Secretary of Health and Human Services shall be deemed to have been satisfied."

This revision was necessary because the original language of paragraph (e), which was incorporated without change into the Notice of Proposed Rulemaking, called for return of the bond upon the granting of a special exemption. Since the bond is posted to satisfy Customs requirements as well as those of the Department of Health and Human Services, and, in the case of a CF 7551, becomes a permanent part of the entry file, its return to the importer would be inappropriate.

After a review of the matter, other than for the change discussed above, Customs has determined to adopt the proposal as described in that notice.

E.O. 12291

It has been determined that the amendments in this document e not a "major rule" within the criteria provided in section 1(b) E.O. 12291, and therefore no regulatory impact analysis is reired.

REGULATORY FLEXIBILITY ACT

The provisions of the Regulatory Flexibility Act relating to an itial and final regulatory flexibility analysis (5 U.S.C. 603, 604) e not applicable to these amendments because the rule will not ave a significant economic impact on a substantial number of nall entities. The amendments are technical conforming amendents which clarify existing regulatory and statutory requirements ithout making any substantive change.

Accordingly, the document contains a certification pursuant to ction 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the nendments will not have a significant economic impact on a subantial number of small entities.

PAPERWORK REDUCTION ACT

The declaration requirements are subject to the Paperwork Reiction Act of 1980, Pub. L. 96-511. Accordingly, Form FD 2877 as submitted to the Office of Management and Budget for approv. Form FD 2877 was approved and its OMB approval number is 7-R0120.

DRAFTING INFORMATION

The principal author of this document was Glen E. Vereb, Regutions Control Branch, Office of Regulations and Rulings, U.S. ustoms Service. However, personnel from other Customs offices articipated in its development.

LIST OF SUBJECTS IN 19 CFR PART 12

Customs duties and inspection, Imports, Importers.

AMENDMENTS TO THE REGULATIONS

Part 12, Customs Regulations (19 CFR Part 12), is amended as set orth below.

WILLIAM VON RAAB,
Commissioner of Customs.

Approved: October 25, 1983.
JOHN M. WALKER, JR.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, November 18, 1983 (48 FR 52435)]

PART 12—SPECIAL CLASSES OF MERCHANDISE

Sections 12.90 and 12.91, Customs Regulations, are revised to read as follows:

§ 12.90 Definitions

As used in §§ 12.90 and 12.91, the term "the Act" shall mean the Public Health Service Act (42 U.S.C. 201 *et seq.*), as amended by the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263b *et seq.*), and as further amended from time to time.

§ 12.91 Electronic products offered for importation under the Act.

(a) *Standards prescribed by the Department of Health and Human Services.* Electronic products offered for importation into the customs territory of the United States are subject to standards prescribed under section 358 of the Act (42 U.S.C. 203f) unless intended solely for export. Prescribed standards shall not apply to any electronic product intended solely for export if:

(1) Such product and the outside of any shipping container used in the export of such product are labeled or tagged to show that it is intended for export, and

(2) Such product meets all the applicable requirements of the country to which it is intended for export.

(See 21 CFR Chapter I, Subchapter J.)

(b) *Requirements for entry and release.* Electronic products subject to standards in effect under section 358 of the Act (42 U.S.C. 263f), when offered for importation into the customs territory of the United States, shall be refused entry unless there is filed with the entry, in duplicate, a declaration (FDA Form FD 2877) verified by the importer of record which identifies the products and affirms:

(1) That the electronic products were manufactured before the date of any applicable electronic product performance standard (the date of manufacture shall be specified); or

(2) That the electronic products comply with all standards in effect under section 358 of the Act (42 U.S.C. 263f), and Chapter I, Subchapter J, title 21, Code of Federal Regulations (21 CFR, Chapter I, Subchapter J), and that the certification required by section 360 of the Act (42 U.S.C. 263h) in the form of a label or tag is attached to the product; or

(3)(i) That the electronic products do not comply with all standards in effect under section 358 of the Act (42 U.S.C. 263f), and Chapter I, Subchapter J, title 21, Code of Federal Regulations (21 CFR, Chapter I, Subchapter J), but are being imported for the purpose of research, investigations, studies, demonstrations, or train-g, (ii) that the products will not be introduced into commerce and hen the use for which they were imported is completed they will e destroyed or exported under Customs supervison, and (iii) that n exemption for these products has been or will be requested from e National Center for Devices and Radiological Health, Food and rug Administration, in accordance with section 360B(b) of the Act 2 U.S.C. 263j); or

(4) That the electronic products do not comply with all standards n effect under section 358 of the Act (42 U.S.C. 263f) and Chapter , Subchapter J, Code of Federal Regulations (21 CFR, Chapter Sub- hapter), but that a timely and adequate pention for permission to ring the products into compliance with applicable standards has een or will be filed with the Secretary of Health and Human Serv- ces in accordance with section 360 of the Public Health Service ct, as amended, and as implemented by 21 CFR 1005.21.

(c) *Notice of sampling.* When a sampling of a product offered for mporation has been requested by the Secretary of Health and uman Services, as provided for in 21 CFR 1005.10, the district di- ector of Customs having jurisdiction over the shipment from hich the sample is procured shall give to its owner or importer of ecord prompt notice of delivery of, or intention to deliver, the ample. If the notice so requires, the owner or importer of record hall hold the shipment of which the sample is typical and not release the shipment until notice of the results of the tests of the ample from the Secretary of Health and Human Services stating he product fulfills the requirements of the Act.

(d) *Release under bond.* If a declaration filed in accordance with paragraph (b) of this section states that the entry is being made under circumstances described in paragraph (b)(4) of this section, the entry shall be accepted only if the owner or importer of record gives a bond on Customs Form 7551, 7553, or 7595 for the production of a notification from the Secretary of Health and Human Services or his designee, in accordance with 21 CFR 1005.23, that the electronic product described in the declaration filed by the importer of record is in compliance with the applicable standards. The bond shall be in the amount required under § 113.14 of this chapter. Within 180 days after the entry or such additional period as the district director may allow for good cause shown, the importer of record shall take any action necessary to insure delivery to the district director of the notification described in this paragraph. If the notification is not delivered to the district director for the port of entry of the electronic products within 180 days of the date of entry or such additional period as may be allowed by the district director, for good cause shown, the importer of record shall deliver or cause to be delivered to the district director those electronic products which were released. In the event that any electronic products are not redelivered to Customs custody or exported under Customs supervision within the period allowed by the district director in the Notice of Redelivery (Customs Form 4647), liquidated damages shall be assessed in the full amount of a bond given on Customs Form 7551. When the transaction has been charged against a bond given on Customs Form 7553, or 7595, liquidated damages shall be assessed in the amount that would have been demanded if the merchandise had been released under a bond given on Customs Form 7551.

(e) *Release without bond—special exemptions.* For certain electronic products the Director, National Center for Devices and Radiological Health, has granted special exemptions from the otherwise applicable standards under the Act. Such exempted products may be imported and released without bond if they meet all the criteria of the special exemption. If a special exemption is granted after the product has been imported under bond in accordance with paragraph (d) of this section, the bond conditions pertaining to the notification of compliance from the Secretary of Health and Human Services shall be deemed to have been satisfied.

(f) *Merchandise refused entry.* If electronic products are denied entry under any provision of this section, the district director shall refuse to release the merchandise for entry into the United States.

(g) *Disposition of merchandise refused entry into the United States; redelivered merchandise.* Electronic products which are denied entry under paragraph (b) of this section, or which are redelivered in accordance with paragraph (d) of this section, and which are not exported under Customs supervison within 90 days from the date of notice of refusal of admission or date of redelivery, shall be disposed of under Customs supervision within 90 days from the date of notice of refusal of admission or date of redelivery, shall be disposed of under Customs laws and regulations. However, no such disposition shall result in an introduction into the United States of an electronic product in violation of the Act (42 U.S.C. 263f, 263h).

(R.S. 251, as amended, sections 464, 498, 624, 46 Stat. 722, as amended, 728, as amended, 759) (19 U.S.C. 66, 1484, 1498, 1624)).

(T.D. 83-236)

Bonds

Approval and discontinuance of bonds on Customs Form 7587 for the control of Instruments of International Traffic of a kind specified in section 10.41a of the Customs Regulations

Bonds on Customs Form 7587 for the control of instruments of international traffic of a kind specified in section 10.41a of the Customs Regulations have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following hich has been discontinued. If the previous bond was in the name f a different company or if the surety was different, the informaion is shown in a footnote at the end of the list.

Dated: November 8, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
rgenta Products Co., Eastport, ME; Maine Bonding and Casualty Co. D 10/19/83	Oct. 7, 1975	Oct. 15, 1975	Portland, ME $10,000
ox Caribbean Line Agencies, Inc., 29 Broadway, New York, NY; Old Republic Ins. Co.	Sept. 22, 1983	Sept. 26, 1983	New York Seaport $30,000
oxline Shipping Co., Ltd., 17 Battery Place, New York, NY; Washington International Ins. Co. D 10/7/83	Jan. 11, 1982	Jan. 12, 1982	New York Seaport $10,000
C. Brock Corp., 95 Kentucky St., Buffalo, NY; Employers Insurance of Wausau D 11/24/83	Oct. 6, 1980	Nov. 4, 1980	Buffalo, NY $10,000
onstrucciones Maritimas Mexicanas, S.A. de C.V., Carretera Monterrey, Saltillo KM. 339, Santa Catarina, Nuevo León, Mexico, Highlands Ins. Co.	Sept. 1, 1983	Sept. 16, 1983	New Orleans, LA $20,000
lota Bananera Eucatoriana, S.A. (a foreign corp.), 42 Broadway, New York, NY; American Motorists Ins. Co.	Sept. 27, 1983	Sept. 28, 1983	New York Seaport $10,000
he Flying Tiger Line, Inc., 7401 World Way West, P.O. Box 92935, Los Angeles, CA; The Aetna Casualty & Surety Co. (PB 10/7/80) D 10/6/83 [1]	Sept. 7, 1983	Oct. 7, 1983	Los Angeles, CA $125,000
liff C. Henderson Ltd. Inc., 909 N. Bowser Rd., Richardson, TX; Peerless Ins. Co.	Sept.21, 1983	Oct. 5, 1983	Houston, TX $30,000
red Imbert, Inc., P.O. Box 4424, San Juan, PR; Ins. Co. of North America D 10/31/83	Sept. 23, 1982	Oct. 31, 1982	San Juan, PR $10,000
nternational Shipping Co., Inc., 916 Norton Bldg., Seattle, WA; Old Republic Ins. Co. (PB 10/3/68) D 10/25/83 [2]	Oct. 20, 1983	Oct. 25, 1983	Seattle, WA $10,000
apan Line (U.S.A.) Ltd., One World Trade Center, New York, NY; Washington International Ins. Co.	Sept. 22, 1983	Sept. 23, 1983	New York Seaport $10,000
illy Shipping Agencies, One California St., Suite 2300, San Francisco, CA; Fidelity and Deposit Co. of MD (PB 10/1/74) D 10/1/83 [3]	Oct. 1, 1983	Oct. 1, 1983	San Francisco, CA $10,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Pacific Resources Inc., PRI Tower, 733 Bishop St., P.O. Box 3379, Honolulu, HI; Old Republic Ins. Co.	Sept. 29, 1983	Sept. 29, 1983	Honolulu, HI $10,000
Stolt Tank Containers (U.S.A.) Inc., 8 Soundshore Dr., P.O. Box 2200, Greenwich, CT; Washington International Ins. Co.	Sept. 27 1983	Sept. 28 1983	New York Seaport $10,000
United States Steel International Inc., 600 Grant St., Pittsburgh, PA; Federal Ins. Co. (PB 6/30/81) D 10/4/83	Oct. 1, 1983	Oct. 4, 1983	New York Seaport $50,000
United Tank Containers Inc., Two World Trade Center, New York, NY; Washington International Ins. Co. D 9/27/83	July 27, 1982	Aug. 6, 1982	New York Seaport $10,000

[1] Surety is St. Paul Fire & Marine Ins. Co.
[2] Surety is St. Paul Fire & Marine Ins. Co.
[3] Surety is Pacific Ins. Co.

BON-3-10

EDWARD B. GABLE, Jr.,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-237)

Bonds

Approval and discontinuance of consolidated aircraft bonds (air carrier blanket bonds), Customs Form 7605

The following consolidated aircraft bonds have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: November 15, 1983.

Name of principal and surety	Date term commences	Date of approval	Filed with district director/area director/amount
ALM Antillean Airlines, Netherlands Antilles Corp., Dr. Albert Plesman Airport, Curacao, Netherlands Antilles; Aetna Casualty and Surety Co. (PB 7/25/80) D 11/3/83 [1]	July 25, 1982	Nov. 3, 1983	**Miami, FL $100,000**

The foregoing principal has not been designated as a carrier of bonded merchandise.

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[1] Surety is Aetna Ins. Co.

BON-3-01

Edward B. Gable, Jr.,
Director,
Carriers, Drawback and Bonds Division.

19 CFR Part 162

(T.D. 83-238)

Boarding and Search of Vessels by Customs Officers

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations relating to the boarding and search of vessels to: (1) permit Customs officers to board and search an American vessel on the high seas without a requirement that there be probable cause to believe that such vessel is violating or has violated the laws of the United States; and (2) provide that Customs officers are authorized to assist any other agency in the enforcement of United States laws on any vessel.

Customs believes that these changes are in the interest of the efficient and effective administration of its enforcement responsibility.

EFFECTIVE DATE: December 23, 1983.

FOR FURTHER INFORMATION CONTACT: Stuart P. Seidel, Assistant Chief Counsel (Enforcement and Operations), U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-2482).

SUPPLEMENTARY INFORMATION:

Background

Section 162.3(a), Customs Regulations (19 CFR 162.3(a)), presently states that a Customs officer, for the purpose of examining the manifest and other documents and papers, and examining, inspecting, and searching a vessel, may at any time go on board:

> (1) Any vessel at any place in the United States or within the Customs waters of the United States;
>
> (2) Any American vessel on the high seas, when there is probable cause to believe that such vessel is violating or has violated the laws of the United States; or
>
> (3) Any vessel within a Customs-enforcement area designated such under the provisions of the Anti-Smuggling Act (Act of August 5, 1935, as amended, 49 Stat. 517; 19 U.S.C. 1701, 1703-1711), but Customs officers shall not board a foreign vessel upon the high seas in contravention of any treaty with a foreign government, or in the absence of a special arrangement with the foreign government concerned.

In a notice published in the Federal Register on September 14, 1981 (46 FR 45626), Customs proposed to amend section 162.3(a)(2) by eliminating the requirement that there be probable cause to believe that an American vessel is violating or has violated the laws of the United States before it is boarded and searched on the high seas.

The notice also proposed to add a new section 162.3(c) which would state that Customs officers are authorized to assist any other agency in the enforcement of United States laws on any vessel.

COMMENTS

In response to the notice, Customs received four comments, one of which supports the proposed rule.

One commenter simply contends that Customs does not have the authority to make the proposed changes.

Another commenter states that the proposed rule does not present a convincing legal basis for the changes, and that the notice does not adequately address the question of the protection afforded by the Fourth Amendment to the Constitution. The commenter states, with respect to the reference in the notice that Customs authority under 19 U.S.C. 1581(a) is substantially similar to Coast Guard authority under 14 U.S.C. 89(a), that 14 U.S.C. 89(a) specifically authorizes Coast Guard inspections, searches and seizures "upon the high seas," whereas 19 U.S.C. 1581 contains no such general reference to Customs enforcement seaward of customs waters.

A final commenter maintains that Customs does not have statutory authorization for the proposed rule in that, pursuant to 19 U.S.C. 1581(a), Customs authority with respect to boarding, inspecting, and searching a vessel, is limited to the customs waters. In this regard, *United States* v. *Warren*, 578 F. 2d 1058 (5th Cir. 1978) (*en banc*), *rev'g* 550 F. 2d 219 and *United States* v. *Williams*, 617 F. 2d 1063 (5th Cir. 1980) are cited. The commenter contrasts the functions of Customs and the Coast Guard, and concludes that Customs has a well-defined, narrow task compared to the general and pervasive powers of the Coast Guard on the high seas. The commenter further states that, even if Customs did have the statutory authority for the proposed rule, such authority could not be exercised consistently with the Fourth Amendment, particularly with respect to generalized searches, as opposed to stops for documentary checks or safety checks. The commenter contends that the case law indicates that there must be reason to suspect that a border crossing or a violation of law has occurred before even a documentary check or safety check can be made. Thereafter, a generalized search subsequent to an investigatory stop requires probable cause.

FORMULATION OF FINAL RULE

The comments did not address the proposal to add a new section 162.3(c) to the Customs Regulations. The proposal is being adopted.

After a review of the comments and further consideration of the matter, Customs has decided to adopt the proposal to amend section 162.3(a)(2) to permit Customs officers to board and search an American vessel on the high seas without a requirement that there be probable cause to believe that such vessel is violating or has violated the laws of the United States.

Section 581(a), Tariff Act of 1930, as amended (19 U.S.C. 1581(a)), states as follows:

> Any officer of the customs may at any time go on board of any vessel or vehicle at any place in the United States or within the customs waters or, as he may be authorized, within a customs-enforcement area established under the Anti-Smuggling Act, *or at any other authorized place,* without as well as within his district, and examine the manifest and other documents and papers and examine, inspect, and search the vessel or vehicle and every part thereof and any person, trunk, package, or cargo on board, and to this end may hail and stop such vessel or vehicle, and use all necessary force to compel compliance. (Emphasis supplied.)

Under 14 U.S.C. 89(a), the Coast Guard is authorized to:

> make inquiries, examinations, inspections, searches, seizures, and arrests upon the high seas and waters over which the United States has jurisdiction, for the prevention, detection, and suppression of violations of laws of the United States. For such purposes, commissioned, warrant, and petty officers may at any time go on board of any vessel subject to the jurisdiction, or to the operation of any law, of the United States, address inquiries to those on board, examine the ship's documents and papers, and examine, inspect, and search the vessel and use all necessary force to compel compliance.

As stated by the court in *Warren, supra* at 1064–65, pursuant to 14 U.S.C. 89(a), the Coast Guard may apprehend and board any vessel of the American flag on the high seas; such authority does not need to be founded upon any particularized suspicion.

In *United States* v. *Freeman*, 579 F. 2d 942, 946 (5th Cir. 1978), the court, in holding that Customs officials had statutory authority pursuant to 19 U.S.C. 1581(a) to detain and board a vessel in customs waters for the purpose of a document check, described 14 U.S.C. 89(a) as being "analogous" to 19 U.S.C. 1581(a), and stated that the language of the two statutes was "nearly identical." The court further stated that "the authority embodied within section 1581 may be traced back to the commencement of the Republic when the First Congress statutorily granted Customs officials *broad powers*." (Emphasis supplied.)

In *United States* v. *Gollwitzer*, 697 F. 2d 1357 (11th Cir. 1983), which involved the boarding and search of a vessel on inland waters by Customs officers, the court spoke of "the broad authority vested in Customs and Coast Guard officers."

Customs believes that the authority for the promulgation of amended section 162.3(a)(2), is as follows:

1. 19 U.S.C. 1581(a), particularly the words "at any other authorized place." 19 U.S.C. 1581(a) authorizes boardings within the United States (internal waters and the territorial sea to the three-mile limit), within the customs waters (generally from the coast to the 12-mile limit of the contiguous zone), or within customs-enforcement areas (50 miles from the limits of customs waters). The only area remaining is international waters beyond the customs waters.
2. The substantial similarity of 19 U.S.C. 1581(a) and 14 U.S.C. 89(a).
3. The fact that the Coast Guard may stop and board any American vessel on the high seas; prior to 1936, the Coast Guard's authority was based upon the predecessor statute to 19 U.S.C. 1581(a). See *Maul* v. *United States*, 274 U.S. 501, 507 (1927).
4. 46 U.S.C. 277 which authorizes customs officers to inspect a vessel's documents at any time.
5. The fact that customs laws clearly contemplate actions beyond the 12-mile limit. See 19 U.S.C. 1581 (g) and (h), 1583, 1586 (b), (c), and (e), and 1587.
6. 19 U.S.C. 66, which states in part that the Secretary of the Treasury "shall give such directions to customs officers and prescribe such rules and forms to be observed by them as may be necessary for the proper execution of the law."

One of the commenters points out language in *United States* v. *Williams*, *supra* at 1073, which states:

> Section 1581(a) empowers both the Customs Service and the Coast Guard to board vessels and conduct customs searches but only in customs waters within the twelve-mile limit.

Customs does not believe that this language of *Williams* precludes the amendment to section 162.3(a). The issue of a Customs officer boarding an American vessel on the high seas was not pre sented in *Williams*, which involved the Coast Guard's seizure of a foreign vessel on the high seas. Further, Customs believes that the court in *Williams*, in writing of section 1581(a), merely repeated the limitations recognized by the court in *Warren*, which were based on the restrictive language of section 162.3(a)(2). Customs does not believe that the court in *Williams* considered the "at any other authorized place" language of 19 U.S.C. 1581(a).

Customs believes that section 162.3(a) should be consistent with the language of the corresponding statute, 19 U.S.C. 1581(a). If additional interpretation of the statute or regulations is necessary, it should be done by the courts. Over the last few years, there have been numerous cases in several circuits involving vessel searches and seizures.

Customs believes that the amendment to section 162.3(a) is constitutional. In *Williams, supra* at 1081-82, the court spoke of:

> * * * the cases holding that section 89(a) constitutionally authorizes the Coast Guard to stop American vessels beyond the twelve-mile limit for routine safety and documentary checks. E.g. *United States* v. *Warren*, 578 F. 2d 1058; *United States* v. *One (1) 43 Foot Sailing Vessel*, 538 F. 2d 694; *United States* v. *Odom*, 526 F. 2d 339. These cases reconfirm the notion that the fourth amendment does not necessarily require any sort of suspicion of criminal activity before a vessel may be stopped at sea; in addition, they imply that Congress's authority to enact statutes providing for "groundless" searches of vessels is not limited by the Constitution to United States customs waters.

The *Williams* court, *supra* at 1083, also stated that:

> The United States obviously has a vital interest in preventing the smuggling of illegal narcotics into the country and in apprehending those who may reasonably be suspected of violating the criminal narcotics laws.
>
> Furthermore, the seizure of a nautical vessel is a very limited and foreseeable instrusion.

In *Freeman, supra* at 946, the court stated:

> [No] case holds that the stop of a vessel on the seas for a document or safety check is constitutionally proscribed by the Fourth Amendment. Indeed, our cases have upheld the right of government agents to stop vessels for routine safety and document checks under the analogous statutory authority granted to the Coast Guard by 14 U.S.C. 89(a).

In *Gollwitzer, supra* at 1657, the court recognized that ocean going vessels have a diminished expectation of privacy:

> The potential for provoking fear by randomly stopping vessels capable of ocean travel is therefore less onerous than that in the context of random automobile stops or airport seizures.

The United States Supreme Court in *U.S.* v. *Villamonte-Marquez*, — U.S. — (1983) recognized the constitutionality of 19 U.S.C. 1581 and held that the standards which govern vessel boardings are different than those governing land vehicles.

The proposal to amend section 162.3 will improve the effectiveness of maritime interdiction activities. Operations on the high seas will continue to be governed by the 1978 interagency agreement between the Coast Guard and Customs which sets forth the framework for such activities.

The Fourth Amendment prohibits searches and seizures which are unreasonable. The actions authorized by the amendment to section 162.3(a) are not unreasonable in view of the role of Customs; the fact that Customs frequently acts in concert with the Coast Guard; and the fact that no case holds that the stop and search of a vessel on the high seas is constitutionally prohibited by the Fourth Amendment.

EXECUTIVE ORDER 12291

These amendments will not result in a "major rule" as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

REGULATORY FLEXIBILITY ACT

It is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that these amendments will not have a significant economic impact on a substantial number of small entities. The amendments are an enforcement measure which is not expected to have incidental effects on a substantial number of small entities.

DRAFTING INFORMATION

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

LIST OF SUBJECTS IN 19 CFR PART 162

Law enforcement, Customs duties and inspection, Imports.

AMENDMENTS TO THE REGULATIONS

Part 162, Customs Regulations (19 CFR Part 162), is amended as set forth below.

WILLIAM VON RAAB,
Commissioner of Customs.

Approved: November 2, 1983.
JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, November 23, 1983 (48 FR 52897)]

PART 162—RECORDKEEPING, INSPECTION, SEARCH, AND SEIZURE

Section 162.3 is revised to read as follows:

§ 162.3 Boarding and search of vessels.

(a) *General authority.* A Customs officer, for the purpose of examining the manifest and other documents and papers and examining, inspecting and searching the vessel, may at any time go on board:

(1) Any vessel at any place in the United States or within the Customs waters of the United States;

(2) Any American vessel on the high seas;

(3) Any vessel within a Customs-enforcement area designated such under the provisions of the Anti-Smuggling Act (Act of August 5, 1935, as amended, 49 Stat. 517; 19 U.S.C. 1701, 1703-1711), but Customs officers shall not board a foreign vessel upon the high seas in contravention of any treaty with a foreign government, or in the absence of a special arrangement with the foreign government concerned.

(b) *Search of army or navy vessel.* If the district director or special agent in charge believes that sufficient grounds exist to justify a search of any army or navy vessel, the facts shall be reported to the commanding officer or master of the vessel with a request that he cause a full search to be made, and advise the district director or special agent in charge of the result of such search. If, after the cargo has been discharged, passengers and their baggage landed, and the baggage of officers and crewmembers examined and passed, the district director or special agent in charge believes that sufficient grounds exist to justify the continuance of Customs supervision of the vessel, the commanding officer or master of the vessel shall be advised accordingly.

(c) *Assistance of other agencies.* Customs officers are authorized to assist any other agency in the enforcement of United States laws on any vessel.

(R.S. 251, as amended, sec. 581, 46 Stat. 747, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1581, 1624))

(T.D. 83-239)

Bonds

Approval and discontinuance of Carrier's Bonds, Customs Form 3587

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: November 17, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
A & S Trucking, P.O. Box 4027, Missoula, MT; motor carrier; The Travelers Indemnity Co. D 10/25/83	Jan. 7, 1982	Feb. 2, 1982	Great Falls, MT $25,000
Advance Transportation Systems, Inc., 800 South Cooper Ave., Cincinnati, OH; motor carrier; Ins. Co. of North America.	Nov. 1, 1983	Nov. 3, 1983	Cleveland, OH $50,000
All States Trucking—see Pacific Intermountain Express Co.			
Averitt Express, Inc., P.O. Box 3166, Cookeville, TN; motor carrier; The American Ins. Co.	Oct. 24, 1983	Nov. 8, 1983	New Orleans, LA $25,000
B & H Trucking Co., 1441 Ferry Ave., Camden, NJ; motor carrier; The North River Ins. Co. D 11/6/83	Oct. 19, 1982	Oct. 27, 1982	Philadelphia, PA $25,000
Bekins Van Lines Co., 333 S. Center St., Hillside, IL; motor carrier; Ins. Co. of North America. (PB 2/10/82) D 11/7/83	Sept. 20, 1983	Nov. 8, 1983	Los Angeles, CA $300,000
Central Cartage Co., 34200 Mound Rd., Sterling Heights, MI; motor carrier; Ins. Co. of North America. (PB 9/1/78) D 10/26/83 [1]	Oct. 17, 1983	Oct. 26, 1983	Detroit, MI $50,000
Central Transport, Inc., 34200 Mound Rd., Sterling Heights, MI; motor carrier; Ins. Co. of North America. (PB 9/1/78) D 10/26/83 [2]	Oct. 17, 1983	Oct. 26, 1983	Detroit, MI $50,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Complete Auto Transit, Inc., East 4111 Andover Rd., Bloomfield Hills, MI; motor carrier; Fidelity & Deposit Co. of MD.	Oct. 10, 1983	Oct. 21, 1983	Detroit, MI $50,000
Continental Carrier Corp., 15045 E. Salt Lake Ave., P.O. Box 1257, City of Industry, CA; motor carrier; National Union Fire Ins. Co. of Pittsburgh, PA.	Sept. 27, 1983	Oct. 11, 1983	Los Angeles, CA $50,000
Davis Transport Inc., 216 Trade St., Missoula, MT; motor carrier; Allied Fidelity Ins. Co. (PB 9/17/81) D 10/24/83 [3]	Oct. 24, 1983	Nov. 3, 1983	Great Falls, MT $50,000
Emerson Electric Co., Transportation Div., 514 Earth City Expressway, St. Louis, MO; contract carrier; Safeco Insurance Co. of America.	Aug. 15, 1983	Nov. 10, 1983	St. Louis, MO $50,000
General Cartage Co., South 20 West 22971 Pearl St., Waukesha, WI; motor carrier; The Travelers Indemnity Co. D 9/18/83	June 13, 1978	June 23, 1978	Milwaukee, WI $25,000
Richard M. Godfrey d/b/a Richard M. Godfrey Trucking, 6419 West 2100 South, West Valley City, UT; motor carrier; Mid-Century Ins. Co.	June 20, 1983	Oct. 18, 1983	Great Falls, MT $25,000
The Great American Trucking Co., Inc., P.O. Drawer 2657, Peachtree City, GA; motor carrier; Gulf Ins. Co.	Oct. 24, 1983	Oct. 28, 1983	Tampa, FL $50,000
Greentree Transportation, 6501 W. 65th St., Chicago, IL; motor carrier; United States Fire Ins. Co.	Sept. 22, 1983	Oct. 31, 1983	Philadelphia, PA $25,000
Harmony Transport, Inc., P.O. Box 9487, Yakima, WA; motor carrier; State Farm Fire & Casualty Co.	July 18, 1983	Nov. 1, 1983	Seattle, WA $25,000
Howard Trucking Co., Inc., P.O. Drawer 1479, New Iberia, LA; motor carrier; The Travelers Indemnity Co.	Oct. 7, 1983	Nov. 2, 1983	New Orleans, LA $25,000
J & P Express, 11017 Wildcat Canyon Rd., Lakeside, CA; contract carrier; Peerless Ins. Co.	Oct. 19, 1983	Nov. 14, 1983	San Diego, CA $50,000
Keri Corp., 58-20 Borden Ave., Maspeth, Long Island, NY; motor carrier; Old Republic Ins. Co.	Aug. 30, 1983	Oct. 27, 1983	Philadelphia, PA $50,000
Kunkle Transfer & Storage Co., P.O. Box 3498, Phoenix, AZ; motor carrier; Aetna Casualty & Surety Co. D 9/27/83	Aug. 29, 1982	Aug. 29, 1982	Nogales, AZ $25,000
The Long Island Railroad Co., Jamaica Station, Jamaica, NY; rail carrier; Sentry Ins.—a Mutual Co. (PB 9/27/79) D 9/27/83 [4]	Sept. 27, 1983	Oct. 28, 1983	New York Seaport $100,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Lyons Transport, Inc., 710 Sprucewood Ave., Windsor, Ontario, Canada motor carrier; Commercial Union Ins. Co. D 10/28/83	June 30, 1975	Aug. 14, 1975	Detroit, MI $50,000
Andrew McDermott, Inc., 222 Murray St., Newark, NJ; motor carrier; The Travelers Indemnity Co. D 10/31/83	June 14, 1972	July 12, 1972	Philadelphia, PA $50,000
McKinlay Transport Limited Inc., 34200 Mound Rd., Sterling Heights, MI; motor carrier; Insurance Co. of North America. (PB 9/1/78) D 10/26/83 [5]	Oct. 17, 1983	Oct. 26, 1983	Detroit, MI $50,000
M. R. & R. Trucking Co., P.O. Box 1000, Staunton, VA; motor carrier; St. Paul Fire & Marine Ins. Co. (PB 10/29/68) D 10/27/83 [6]	Oct. 18, 1983	Oct. 28, 1983	Mobile, AL $25,000
Mukluk Freight Lines, Inc., 3812 Spenard Rd., Anchorage, AK; motor carrier; The American Ins. Co. (PB 2/4/75) D 2/4/78 [7]	Feb. 4, 1978	Feb. 5, 1978	Anchorage, AK $25,000
National Marine Service, Inc., 3710 Dacoma, Houston, TX; water carrier; Ins. Co. of North America. D 10/27/83	Feb. 8, 1980	Feb. 8, 1980	Houston, TX $50,000
New Concept Transportation Inc., 458 Kleman Rd., Gilbertsville, PA; motor carrier; Protective Ins. Co. D 10/24/83	Dec. 8, 1982	Dec. 13, 1982	Philadelphia, PA $25,000
Pacific Intermountain Express Co. and All States Trucking, a Div. of Pacific Intermountain Express Co. (P.I.E.), P.O. Box 958, Oakland, CA; motor carrier; American Casualty Co. D 11/2/83	Mar. 23, 1978	Mar. 23, 1978	San Francisco, CA $50,000
Risberg's Truck Line, 2339 S. E. Grand Ave., Portland, OR; motor carrier; St. Paul Fire & Marine Ins. Co.	Oct. 18, 1983	Nov. 2, 1983	Portland, OR $25,000
Smith Hardware Inc. d/b/a Smith Oil Co., Main St., Jackman, ME; motor carrier; St. Paul Fire & Marine Ins. Co. D 10/31/83	Oct. 3, 1983	Oct. 13, 1983	St. Albans, VT $25,000
Smith Oil Co.—see Smith Hardware Inc.			
Tobler Transfer, Inc., Spring Valley, IL; motor carrier; St. Paul Fire & Marine Ins. Co. (PB 9/20/81) D 10/31/83 [8]	Oct. 22, 1983	Oct. 31, 1983	Chicago, IL $25,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Todd Transportation Co., 9 Becon Dr., Wilder, KY; P.O. Box 599, New Port, KY; motor carrier; Old Republic Ins. Co. (PB 10/13/80) D 11/9/83 [9]	Oct. 7, 1983	Nov. 9, 1983	Cleveland, OH $50,000
Torque Transport Inc., 2190 Hymus Blvd., Dorval, Quebec, Canada; motor carrier; The Hanover Inc. Co.	Nov. 1, 1983	Nov. 7, 1983	St. Albans, VT $25,000
Total Transportation Corp., 429 Moon Clinton Rd., Coraopolis, PA; motor carrier; Old Republic Ins. Co.	July 26, 1983	Nov. 1, 1983	Philadelphia, PA $25,000
Tri-State Motor Transit Co., P.O. Box 113, Joplin, MO; motor carrier; The Aetna Casualty & Surety Co. (PB 5/18/71) D 10/28/83 [10]	Oct. 17, 1983	Oct. 28, 1983	St. Louis, MO $25,000
Tucker Freight Lines, 1415 S. Olive St., South Bend, IN; motor carrier; Protective Ins. Co. D 10/31/83	July 28, 1972	Aug. 9, 1972	Detroit, MI $50,000
M. Valihora Motor Transportation Inc., 8079 Sirron St., Detroit, MI; motor carrier; The Aetna Casualty and Surety Co.	Mar. 1, 1983	Mar. 1, 1983	Detroit, MI $100,000

[1] Surety is American Ins. Co.
[2] Surety is American Ins. Co.
[3] Surety is U.S. Fidelity & Guaranty Co.
[4] Surety is Sentry Ins. Co.
[5] Surety is American Ins. Co.
[6] Principal is M. R. & R. Trucking Co., Inc. Surety is Hartford Accident & Indemnity Co.
[7] Surety is Safeco Ins. Co. of America.
[8] Surety is Reliance Ins. Co.
[9] Surety is Washington International Ins. Co.
[10] Principal is Tri-State Motor Transit Co., Inc. Surety is State Surety Co.

BON-3-03
216427

EDWARD B. GABLE, Jr.,
Director,
Carriers, Drawback and Bonds Division.

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19 CFR Parts 10 and 147

(T.D. 83-240)

Drawback of Internal Revenue Tax and Transfer of Merchandise Entered for a Trade Fair From a Foreign-Trade Zone

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations relating to drawback of internal revenue tax and transfer of merchandise entered for a trade fair from a foreign-trade zone, to substitute current references to Tariff Schedules of the United States item numbers. The foregoing changes are necessary to conform the regulations to statutory provisions. The document also amends the Customs Regulations to clarify that the transfer of articles entered for a trade fair from a foreign-trade zone status of "zone restricted", and afterwards entered for consumption from a trade fair, can only be accomplished after the Foreign-Trade Zones Board of the Department of Commerce has approved such a transfer as being in the public interest. This nonsubstantive change is necessary to avoid possible misinterpretation of the regulations and clearly state statutory requirements.

DATE: This rule is effective on November 25, 1983.

FOR FURTHER INFORMATION CONTACT:

Legal aspects of Part 147, Customs Regulations: Donald Beach, Carriers, Drawback and Bonds Division, (202-566-5865).

Legal aspects of Part 10, Customs Regulations: Russell X. Arnold, Classification and Value Division, (202-566-5727).

Operational aspects: Herbert Geller, Duty Assessment Division, (202-566-5307).

U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document implements Pub. L. 91-692 by amending the following two sections of the Customs Regulations: Section 10.3, Customs Regulations (19 CFR 10.3), and footnote 2 to that section relating to drawback of internal revenue taxes; and section 147.45, Customs Regulations (19 CFR 147.45), relating to the transfer of merchandise entered for a trade fair from a foreign-trade zone, to delete the reference to item 804.00, Tariff Schedules of the United States, (TSUS) (19 U.S.C. 1202) and substitute TSUS items 804.10 and/or 804.20, as appropriate.

Before Pub. L. 91-692, articles produced in the United States with the use of foreign articles imported under bond were excluded from entry under the provisions of TSUS item 804.00 as "American goods returned." Such articles would have to be entered and duty paid under another applicable provision of the TSUS. However, articles produced in the United States with the use of foreign articles and exported with the benefit of drawback (the refund of a duty or tax lawfully collected because of a particular use of the merchandise on which the duty or tax was collected (section 313(a)), Tariff Act of 1930, as amended (19 U.S.C. 1313(a)) could be imported under TSUS item 804.00 as "American goods returned" upon repayment of the drawback.

In the manufacture of aircraft in the United States, it is fairly common practice to use some foreign articles or materials. Export sales of aircraft produced in the United States are significant, and normally, the duty paid on the foreign articles used in the manufacture of such aircraft is subject to the drawback procedure set forth in Part 22, Customs Regulations (19 CFR Part 22), under which 99 percent of the duty paid on the foreign articles or materials is refunded upon exportation of the completed aircraft. In some instances, foreign articles for use in aircraft are temporarily entered to be repaired or altered under TSUS item 864.05, free of duty under bond (see sections 10.38, and 10.39, Customs Regulations (19 CFR 10.38, 10.39)). Such temporary duty-free entry arrangement is preferred by some manufacturers since no large amount of capital is committed to duty payment for the period between the original entry of the foreign component and the drawback of the duty upon exportation of the aircraft.

Over the years both provisions, i.e., drawback and temporary importation under bond, have been used with respect to eliminating the cost of U.S. duty on foreign articles used in the domestic manufacture of aircraft which are subsequently sold abroad.

Competition in the sales of new aircraft in world markets is rising. Very often the "trade in" allowance for old aircraft is an important factor in obtaining contracts for sales of new aircraft abroad. Under these circumstances, the dutiable status of the old aircraft being "traded in" and returned to the United States becomes important.

In view of the importance of the "trade in" of old aircraft to sales of new aircraft abroad, Congress believed it important to provide similar Customs treatment to aircraft produced in the United States which are sold abroad and returned, whether the drawback or temporary importation bond procedure was used with respect to foreign components.

Pub. L. 91-692 provided such Customs treatment for aircraft by amending the TSUS to delete item 804.00, which provided for articles previously exported from the United States which are excepted from free entry under any of several other provisions of Schedule 8, Part 1, TSUS, and are not otherwise free of duty, and inserting in its place (a) TSUS item 804.10, relating to aircraft exported from the United States with benefit of drawback or TSUS item 864.05, and (b) TSUS item 804.20, relating to other articles. In light of the foregoing, Customs published a notice in the Federal Register on June 17, 1983 (48 FR 27776), which proposed to amend section 10.3 and footnote 2 to that section and section 147.45 to delete the reference to TSUS item 804.00 and substitute a reference to TSUS items 804.10 and/or 804.20, as appropriate.

In addition to the above, the notice proposed to amend section 147.45 to clarify that the transfer of articles entered for a trade fair from a foreign-trade zone status of "zone restricted" and afterwards entered for consumption from a trade fair can only be accomplished after the Foreign-Trade Zones Board ("Board") of the Department of Commerce has approved such a transfer as being in the public interest.

Section 147.45 does not, in its present form, make it clear that the transfer of articles entered for a trade fair from a foreign-trade zone status of "zone restricted" and afterwards entered for consumption from a trade fair can only be accomplished after the Board has approved such a transfer as being in the public interest.

No comments were received in response to the notice. Further review of the matter within Customs has not revealed any reason why the amendments should not be adopted as proposed. Accordingly, the amendments set forth below are adopted without change from the June 17, 1983, Federal Register notice.

EXECUTIVE ORDER 12291

These amendments will not result in a regulation which is a "major rule" as defined by section 1(b) of Executive Order 12291.

REGULATORY FLEXIBILITY ACT

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to these amendments because the rule will not have a significant economic impact on a substantial number of small entities. They are technical conforming amendments which clarify existing regulatory requirements without making any substantive change.

Accordingly, it is certified under the provisions of section 3, Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule will not have a significant economic impact on a substantial number of small entities.

DRAFTING INFORMATION

The principal author of this document was John E. Elkins, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

LIST OF SUBJECTS

19 CFR Part 10

Customs duties and inspection, Imports.

19 CFR Part 147

Customs duties and inspection, Fairs and expositions, Imports.

AMENDMENTS TO THE REGULATIONS

Parts 10 and 147, Customs Regulations (19 CFR Parts 10, 147), are amended as set forth below.

ALFRED R. DEANGELUS,
Acting Commissioner of Customs.

Approved November 3, 1983.
JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, November 25, 1983 (48 FR 53097)]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

§ 10.3 is amended by removing (a) the reference to footnote 2 in paragraph (a) and footnote 2, (b) the words "item 804.00" wherever they appear in paragraph (c)(3) and inserting in their place the words "items 804.10 or 804.20" and (c) the words "item 804.00" in paragraph (f) and inserting in their place the words "item 804.20."

(R.S. 251, as amended, 77A Stat. 14, sec. 624, 46 Stat. 759 (19 U.S.C 66, 1202 (Gen. Hdnt. 11) 1624))

PART 147—TRADE FAIRS

§ 147.45 is amended by revising it to read as follows:

§ 147.45 Merchandise from a foreign-trade zone.

Articles entered for a trade fair from a foreign-trade zone in the status of "zone-restricted merchandise" can afterwards be entered for consumption from a fair if the Foreign-Trade Zones Board has approved the entry for consumption as being in the public interest. Articles entered in the above manner are subject to the provisions of item 804.10, if aircraft, or item 804.20, if not aircraft, unless excluded by headnote 1(c), Subpart A, Part 1, Schedule 8, Tariff Schedules of the United States.

(R.S. 251, as amended, sections 1-21, 48 Stat. 998, 999, as amended, 1000, 1002, as amended, 1003, 77A Stat. 14, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 81a-81u, 1202 (Gen. Hdnt. 11), 1624))

(T.D. 83-241)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
October 3-7, 1983	$0.085837
Chile peso:	
October 3-6, 1983	.012107
October 7, 1983	.011912
Colombia peso:	
October 3-6, 1983	.011976
October 7, 1983	.011933
Greece drachma:	
October 3, 1983	.010805
October 4, 1983	.010782
October 5, 1983	.010823
October 6, 1983	.010852
October 7, 1983	.010846
Indonesia rupiah:	
October 3-6, 1983	.001016
October 7, 1983	.001017
Israel shekel:	
October 3-6, 1983	.01548
October 7, 1983	.01486
Peru sol:	
October 3-6, 1983	.00048
October 7, 1983	.00048
South Korea won:	
October 3-7, 1983	.00126
Taiwan dollar:	
October 3-5, 1983	.0248
October 6-7, 1983	.0248

(LIQ-03-01 S:C:I)

Dated: October 7, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-242)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

October 10, 1983, Holiday use Rates for October 7, 1983.

Argentina peso:	
October 11-14, 1983	$0.085837
Chile peso:	
October 11-13, 1983	.011912
October 14, 1983	.011933
Colombia peso:	
October 11-13, 1983	.011933
October 14, 1983	.011874
Greece drachma:	
October 11, 1983	.010864
October 12, 1983	.010747
October 13, 1983	.010805
October 14, 1983	.010735
Indonesia rupiah:	
October 11-14, 1983	.001017
Israel shekel:	
October 11-13, 1983	.012326
October 14, 1983	.012241
Peru sol:	
October 11-13, 1983	.000486
October 14, 1983	.000482
South Korea won:	
October 11-14, 1983	.001264
Taiwan dollar:	
October 11, 1983	.025869
October 12-14, 1983	.024876

(LIQ-03-01 S:C:I)

Dated: October 14, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-243)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372 (c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
October 17-21, 1983	$0.085837
Chile peso:	
October 17-21, 1983	.011933
Colombia peso:	
October 17-20 1983	.011874
October 21, 1983	.011806
Greece drachma:	
October 17, 1983	.010753
October 18, 1983	.010799
October 19, 1983	.010785
October 20-21, 1983	.010776
Indonesia peso:	
October 17-20, 1983	.001017
October 21, 1983	.001015
Israel shekel:	
October 17-18, 1983	.012206
October 19-20, 1983	.012121
October 21, 1983	.012195
Peru sol:	
October 17-20, 1983	.000482
October 21, 1983	.000477
South Korea won:	
October 17-21, 1983	.001264
Taiwan dollar:	
October 17, 1983	.024882
October 18, 1983	.024888
October 19, 1983	.024894
October 20-21, 1983	.024900

(LIQ-03-01 S:C:I)

Dated: October 21, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-244)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pusuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
October 24-28, 1983	$0.085837
Chile peso:	
October 24-27, 1983	.011933
October 28, 1983	.011765
Colombia peso:	
October 24-27, 1983	.011806
October 28, 1983	.011756
Greece drachma:	
October 24, 1983	.010684
October 25, 1983	.010701
October 26, 1983	.010677
October 27, 1983	.010664
October 28, 1983	.010667
Indonesia rupiah:	
October 24-27, 1983	.001015
October 28, 1983	.001014
Israel shekel:	
October 24-27, 1983	.012195
October 28, 1983	.012002
Peru sol:	
October 24-27, 1983	.000477
October 28, 1983	.000474
South Korea won:	
October 24, 1983	.001264
October 25-28, 1983	.001262

Taiwan dollar:	
October 24, 1983	.024894
October 25-28, 1983	.024888

(LIQ-03-01 S:C:I)

Dated: October 28, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-245)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
October 31, 1983	$0.085837
Chile peso:	
October 31, 1983	.011765
Colombia peso:	
October 31, 1983	.011756
Greece drachma:	
October 31, 1983	.010627
Indonesia rupiah:	
October 31, 1983	.001014
Israel shekel:	
October 31, 1983	.012002
Peru sol:	
October 31, 1983	.000474
South Korea won:	
October 31, 1983	.001261
Taiwan dollar:	
October 31, 1983	.024882

(LIQ-03-01 S:C:I)

Dated: October 31, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-246)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-219 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Philippine peso:	
October 5–7, 1983	$0.071174

(LIQ-03-01 S:C:I)

Dated: October 7, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-247)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-219 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

October 10, 1983, Holiday use Rates for October 7, 1983.

Brazil cruzeiro:	
October 13–14, 1983	$0.001282

Hong Kong dollar:	
October 11, 1983	.120919
October 12, 1983	.121065
October 13, 1983	.121507
October 14, 1983	.122399
Philippine peso:	
October 11-14, 1983	.071174

(LIQ-03-01 S:C:I)

Dated: October 14, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-248)

Foreign Currencies--Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-219 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Brazil cruzeiro:	
October 17-19, 1983	$0.001282
October 20-21, 1983	.001245
Hong Kong dollar:	
October 17, 1983	.125000
October 18, 1983	.127065
October 19, 1983	.127551
October 20, 1983	.128535
October 21, 1983	.128370
Philippine peso:	
October 17-21, 1983	.071174

(LIQ-03-01 S:C:I)

Dated: October 21, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-249)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-219 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Brazil cruzeiro:	
October 24-26, 1983	$0.001245
October 27-28, 1983	.001217
Hong Kong dollar:	
October 24-27, 1983	.128205
October 28, 1983	.128164
Philippine peso:	
October 24-28, 1983	.071174

(LIQ-03-01 S:C:I)

Dated: October 28, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-250)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83-219 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Brazil cruzeiro:	
October 31, 1983	$0.001188
Hong Kong dollar:	
October 31, 1983	.128164
Philippine peso:	
October 31, 1983	.071174
Rep. of South Africa rand:	
October 31, 1983	.85150

(LIQ-03-01 S:C:I)

Dated: October 31, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

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19 CFR Part 141

(T.D. 83-251)

Customs Regulations Amendment Relating to Entry of Cotton Fabrics

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations relating to the requirement for additional invoice information for specified "cotton fabrics", by eliminating the use of a Customs form to furnish that information and allowing the use of a standardized commercial invoice for that purpose. This change will eliminate duplicative information and a Customs form, thus simplifying the procedure and lessening the reporting burden for importers.

EFFECTIVE DATE: January 3, 1984.

FOR FURTHER INFORMATION CONTACT: Herbert H. Geller, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5307).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 141.81, Customs Regulations (19 CFR 141.81), provides that, depending on the circumstances of each importation, either a special Customs invoice, a special summary invoice, or a commercial invoice must be presented for each shipment of merchandise imported into the United States at the time the entry documentation is filed with Customs.

Moreover, the invoices for certain classes of merchandise, specified in section 141.89(a), Customs Regulations (19 CFR 141.89(a)), *e.g.*, "cotton fabrics", classifiable under various item numbers in the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), must contain additional information set forth in detail in that section. Customs Form 5519, "Invoice Details for Cotton Fabrics and Linens", was developed for furnishing the additional information required by section 141.89(a) in the case of the enumerated cotton fabrics.

As part of an ongoing program to align and simplify international trade documentation, the National Committee on International Trade Documentation (NCITD), a broad-based trade group, and Customs officials from the New York Customs Region developed a joint proposal for reporting cotton fabric details. The proposal, which was the subject of a notice of proposed rulemaking (NPRM), published in the Federal Register on November 19, 1982 (47 FR 52193), would allow the additional required information to be submitted on a commercial invoice, standardized in size, format, and information content, and would eliminate the use of Customs Form 5519 for that purpose. As stated in the NPRM, this change would eliminate duplicative information and a Customs form, thus simplifying the procedure and lessening the reporting and paperwork burden for importers.

Only two comments were received in response to the notice. Although the commenters favored the proposal, they recommended certain changes to improve the quality of information collected on the commercial invoice. These recommended changes are discussed below.

DISCUSSION OF COMMENTS

1. *Comment*

The information collection areas identified as items 17 and 18, "Gross Weight" and "Measurement", respectively, should be redesignated as "Unit Price" and "Amount Extension", respectively. By doing this each line description would be correlated with its unit price and amount extension.

Response

Customs concurs and has made the recommended change.

2. *Comment*

The information collection areas identified as items 10 through 14 should be revised to conform with the Standard Master Form developed by NCITD to facilitate preparation of the invoice.

Response

The preparation and submission of a commercial invoice following the Standard Master format will be acceptable for Custom purposes. However, submissions prepared using invoices other tha that aligned to the Standard Master will also be acceptable whe the prescribed data is shown and identified as indicated in the fina rule.

3. *Comment*

The information collection area identified as item 8, "Thread per sq. inch" should be modified to include "single threads per inc in the warp", "single threads per inch in the filling" and, "tota single threads per sq. inch."

Response

Customs concurs and has made the suggested change. This infor mation is critical in determining proper textile and apparel catego ries and quotas. Customs records indicate that this informatio does appear on commercial invoices approximately 90 percent o the time, and it is the general practice for importers to order fabri by specifying single threads per inch in both the warp and filling When this information is not shown, Customs has had to reques the importer to supply it or perform an analysis of the fabric.

4. *Comment*

The information collection area identified as item 14 relating t "How Woven" should indicate the type of information required and include the words "plain, eight or more harnesses, jacquar swivel, lappet."

Response

Customs concurs and has made the suggested change.

5. *Comment*

The information collection area identified as item 15, "No. color or kinds", should read, "No. colors or kinds in the filling."

Response

Customs concurs and has made the suggested change.

6. *Comment*

The information collection area identified as item 16, "Quantity, should indicate that the number of yards must be shown as well a the number of packages.

Response

Customs concurs and has made the suggested change.

7. *Comment*

Additional columns should be required for the unit price and ne weight of each type of fabric.

Response

Unit price will be required (see response to comment 1 above, and information collection area identified on the commercial invoice in the appendix to this document as item 17). Net weight figures are available from other required information on the commercial invoice (see information collection area identified as item 9).

After careful analysis of the comments received, and further review of the matter, it has been determined to adopt the proposal with the changes discussed above. It has also been decided not to use an addendum to the commercial invoice as was proposed in the NPRM. After further review it is Customs opinion that the addendum would in fact be a perpetuation of the Customs Form 5515. In addition, the addendum would be burdensome for a foreign seller or shipper to use. The addendum was not aligned to a standard commercial invoice, was not adaptable to automated production and would probably not be used in any event because most entries for merchandise covered by the proposal are single line entries. Rather than an addendum it is believed additional commercial invoices, when needed, would be preferable to all parties. Appended to this document is a sample of a commercial invoice with the changes noted above.

EXECUTIVE ORDER 12291

As indicated in the proposed rule, this amendment does not meet the criteria for a "major rule" as defined by section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

REGULATORY FLEXIBILITY ACT

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this amendment because the rule will not have a significant economic impact on a substantial number of small entities.

Accordingly, it is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this rule will not have a significant economic impact on a substantial number of small entities.

DRAFTING INFORMATION

The principal authors of this document were Jesse V. Vitello and John E. Elkins, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

LIST OF SUBJECTS IN 19 CFR PART 141

Customs duties and inspection, imports, invoices.

Amendment to the Regulations

Part 141, Customs Regulations (19 CFR Part 141), is amended as set forth below.

PART 141—ENTRY OF MERCHANDISE

Section 141.89(a), Customs Regulations, is amended by removing the last sentence of the eighth paragraph which relates to the use of Customs Form 5519 for collection of information about cotton fabrics and inserting, in its place, a new sentence which reads as follows:

§ 141.89 Additional information for certain classes of merchandise.

(a) * * *

* * * A standardized commercial invoice may be used for furnishing the information required above.

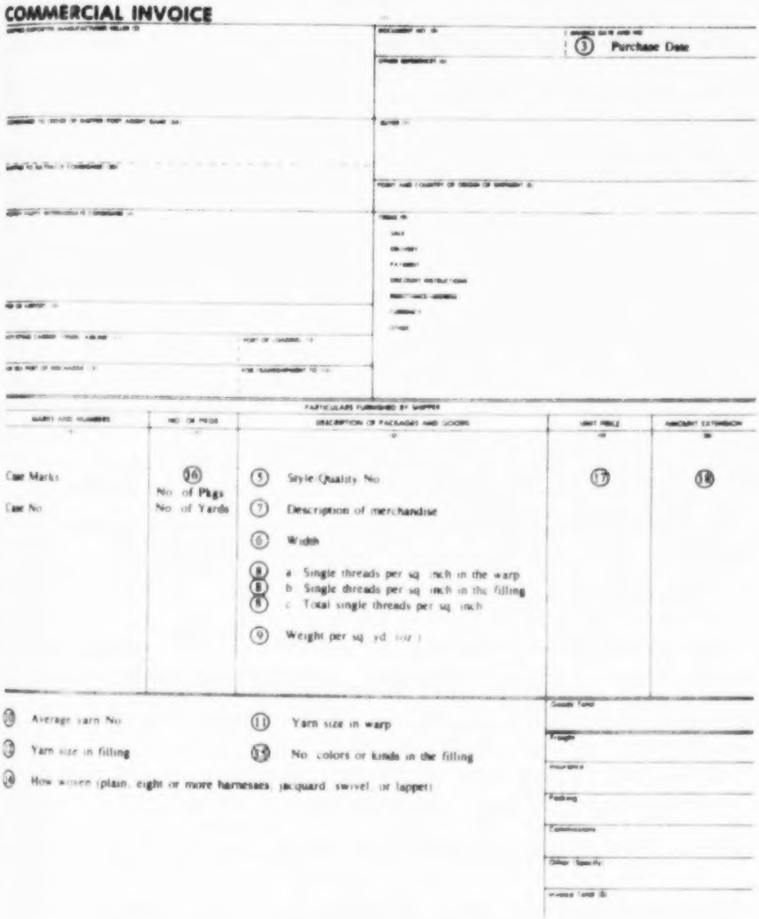
* * * * * * *

(R.S. 251, as amended, sections 481, 484, 624, 46 Stat. 719, 722, as amended, 759 (19 U.S.C. 66, 1481, 1484, 1624))

Alfred R. De Angelus,
Acting Commissioner of Customs.

Approved: November 6, 1983.
John M. Walker, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, December 1, 1983 (48 FR 54217)]



COMMERCIAL INVOICE

③ Purchase Date

PARTICULARS FURNISHED BY SHIPPER

MARKS AND NUMBERS	NO. OF PKGS	DESCRIPTION OF PACKAGES AND GOODS	UNIT PRICE	AMOUNT EXTENSION
Case Marks Case No	⑯ No of Pkgs No of Yards	⑤ Style/Quality No ⑦ Description of merchandise ⑥ Width ⑧ a Single threads per sq inch in the warp ⑧ b Single threads per sq inch in the filling ⑧ c Total single threads per sq inch ⑨ Weight per sq yd (oz)	⑰	⑱

⑩ Average yarn No

⑪ Yarn size in warp

⑫ Yarn size in filling

⑬ No colors or kinds in the filling

⑭ How woven (plain, eight or more harnesses, jacquard, swivel, or lappet)

Goods Total

Freight

Insurance

Packing

Commissions

Other (Specify)

Invoice Total

(T.D. 83-252)

Bonds

Approval and discontinuance of consolidated aircraft bonds (air carrier blanket bonds), Customs Form 7605

The following consolidated aircraft bonds have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: November 25, 1983.

Name of principal and surety	Date term commences	Date of approval	Filed with district director/area director/amount
Hawaiian Airlines, Inc., P.O. Box 30008, Honolulu, HI; Industrial Indemnity Co	Dec. 15, 1983	Nov. 10, 1983	Honolulu, HI $100,000

The foregoing principal has been designated a carrier of bonded merchandise.

BON-3-01

Edward B. Gable, Jr.,
Director,
Carriers, Drawback and Bonds Division.

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19 CFR Part 101

(T.D. 83-253)

Customs Regulations Amendments Relating to the Customs Field Organization

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by consolidating the ports of entry of Trout River, Chateaugay, and Fort Covington, New York, into a single port of entry with its headquarters at Trout River, New York. All three locations will remain open and fully functional. This change will eliminate duplication of port functions and permit better control of staffing resources without impairing services to area businesses or the general public. It will enable Customs to obtain more efficient use of its personnel, facilities, and resources.

FFECTIVE DATE: January 3, 1984.

OR FURTHER INFORMATION CONTACT: Richard Coleman, ffice of Inspection and Control, U.S. Customs Service, 1301 Constition Avenue, NW., Washington, D.C. 20229 (202-566-8157).

JPPLEMENTARY INFORMATION:

BACKGROUND

On May 16, 1983, a notice of a proposal to consolidate three Cusms ports of entry was published in the Federal Register (48 FR 966). The ports, all located in the Northeast Customs Region, eadquartered in Boston, Massachusetts, are located at Trout iver, Fort Covington, and Chateaugay, New York. Interested pares were given until July 15, 1983, to submit comments with reect to consolidating the three ports into a single port of entry ith its headquarters at Trout River. Forty-six comments were reived in response to the notice, none of which favored the propos-.

DISCUSSION OF COMMENTS

Eight comments were submitted by municipal officials from the ffected area, who are under the mistaken impression that the conlidation would result in reduction or elimination of Customs resence at Chateaugay and Fort Covington. This is not the case. he administrative port functions will merely be consolidated in ne office at Trout River. Operational aspects such as the entry of erchandise will continue as before at each location. Customs peronnel will provide service at all three locations on a rotating basis.

The overwhelming majority of the comments discussed a pereived adverse impact on the Customs inspectors who will have to ommute between the three ports of entry on a rotational basis. A ustoms analysis of the required travel patterns for the eighteen ffected inspectors has revealed that two would be significantly afected, ten would average approximately ten additional miles per ay, and the remaining six would actually travel fewer miles than t present.

After consideration of all comments received and further review f the matter, it has been decided to adopt the changes as proposed. hese changes will enable Customs to obtain more efficient use of ts personnel, facilities, and resources, without impairment to area usinesses or the general public.

CHANGES IN THE CUSTOMS FIELD ORGANIZATION

Under the authority vested in the President by section 1 of the ct of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and elegated to the Secretary of the Treasury by Executive Order No. 0289, September 17, 1951 (3 CFR, 1949-1953 Comp., Ch. II), and ursuant to authority provided by Treasury Department Order No.

101-5 (47 FR 2449), the ports of Trout River, Chateaugay, and Fort Convington, New York, are consolidated into one port with its headquarters at Trout River.

LIST OF SUBJECTS IN 19 CFR PART 101

Customs duties and inspection, Exports, Imports, Organization and functions (Government agencies).

AMENDMENTS TO THE REGULATIONS

1. To reflect this change, the list of Customs regions, districts, and ports of entry in Section 101.3(b), Customs Regulations (19 CFR 101.3(b)), is amended by removing "Chateaugay" and "Fort Covington" under the column headed "Ports of entry" in the Ogdensburg, N.Y., Customs District. That column of section 101.3(b), is further amended by removing "Trout River (T.D. 56074)", and inserting, in its place, "Trout River, Chateaugay, Fort Covington, T.D. 83-——."

2. The list of Customs stations in section 101.4(c), Customs Regulations (19 CFR 101.4(c)), is amended by removing "Chateaugay" under the column headed the "Port of entry having supervision," opposite the entry for the Customs station of "Churubusco, N.Y.", and inserting, in its place, "Trout River, N.Y."

REGULATORY FLEXIBILITY ACT

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to these amendments because the rule will not have a significant economic impact on a substantial number of small entities. There will be no reduction in Customs service as a result of this change.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule will not have a significant economic impact on a substantial number of small entities.

EXECUTIVE ORDER 12291

Because this change relates to the organization of the Customs Service, pursuant to section 1(a)(3) of Executive Order 12291, it will not result in a regulation or rule subject to the Executive Order.

DRAFTING INFORMATION

The principal author of this document was Larry L. Burton, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

ALFRED R. DE ANGELUS,
Acting Commissioner of Customs

Approved: November 3, 1983.
JOHN M. WALKER, JR.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, December 1, 1983 (48 FR 54216)]

(T.D. 83-254)

Synopses of Drawback Decisions

The following are synopses of drawback rates issued January 7, 1983, to May 18, 1983, inclusive, pursuant to sections 22.1 through 22.5, inclusive, Customs Regulations.

In the synopses below are listed for each drawback rate approved under 19 U.S.C. 1313(b), the name of the company, the specified articles on which drawback is authorized, the merchandise which will be used to manufacture or produce these articles, the factories where the work will be accomplished, the date the statement was signed, the basis for determining payment, the Regional Commissioner to whom the rate was forwarded or issued by, and the date on which it was forwarded or issued.

DRA-1-09

Dated: November 28, 1983.

File: 216420.

EDWARD B. GABLE, Jr.,
Director,
Carriers, Drawback and Bonds Division.

(A) Company: Bristol-Myers Co.
Articles: Various pharmaceutical products including sterilized glass bottles and aluminum cans
Merchandise: Various pharmaceutical chemicals and unsterilized glass bottles and aluminum cans
Factory: East Syracuse, NY
Statement signed: September 28, 1982
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: New York, April 5, 1983
Revokes: T.D. 79-155-C

(B) Company: Camvac International, Inc.
Articles: Metallized packaging grade polyester film
Merchandise: Polyester film
Factory: Brewster, NY
Statement signed: February 1, 1983
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: New York, March 30, 1983

(C) Company: Ciba-Geigy Corporation
Articles: Chlorobenzilate Technical (a pesticide)
Merchandise: Diethyl Sulfate
Factory: McIntosh, AL
Statement signed: February 3, 1983
Basis of claim: Used in
Rate forwarded to Regional Commissioners of Customs: New York and Boston (Baltimore Liquidation), February 28, 1983

(D) Company: Citrus Belle
Articles: Orange juice from concentrate, frozen concentrated orange juice and bulk concentrated orange juice
Merchandise: Concentrated orange juice for manufacturing
Factory: La Belle, FL
Statement signed: November 23, 1982
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: Miami, April 12, 1983

(E) Company: Edgewater Steel Company
Articles: Titanium alloy rough forgings
Merchandise: Titanium alloy billet
Factory: Oakmont, PA
Statement signed: August 27, 1982
Basis of claim: Used in, less valuable waste
Rate forwarded to Regional Commissioner of Customs: New York, February 23, 1983

(F) Company: E. I. du Pont de Nemours and Company
Articles: X-ray, graphic arts, and engineering reproduction film, in slit or wide rolls or in sheets
Merchandise: Polyethylene terephthalate film base material nonsensitized
Factories: Parlin, NJ, Rochester, NY; Brevard, NC
Statement signed: October 29, 1982
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: Boston (Baltimore Liquidation), May 18, 1983
Revokes: T.D. 74-253-J

(G) Company: Great Plains Bag Corporation
Articles: Woven high density polyethylene shipping bags (plastic bags)
Merchandise: Woven polycloth laminated
Factory: New Philadelphia, OH
Statement signed: January 27, 1983
Basis of claim: Used in, less valuable waste
Rate forwarded to Regional Commissioner of Customs: New York, March 28, 1983

(H) Company: **Kay-Fries, Inc.**
Articles: **Cyanoacetic Acid (CYAD); Ethyl Cyanoacetate (ECYA)**
Merchandise: **Mono-Chloroacetic Acid (MCA)**
Factory: **Stony Point, NY**
Statement signed: **January 13, 1983**
Basis of claim: **Used in**
Rate forwarded to Regional Commissioner of Customs: **New York, February 24, 1983**

(I) Company: **Meer Corporation**
Articles: **Solid and powdered extract licorice root**
Merchandise: **Powdered extract (spray dried) licorice root**
Factory: **North Bergen, NJ**
Statement signed: **October 12, 1981**
Basis of claim: **Used in**
Rate forwarded to Regional Commissioner of Customs: **New York, March 9, 1983**

(J) Company: **Menasha Corporation**
Articles: **Ultra high molecular weight high density polyethylene sheet, block, rod, shapes and board**
Merchandise: **Ultra high molecular weight high density polyethylene**
Factory: **Fort Wayne, IN**
Statement signed: **July 30, 1982**
Basis of claim: **Appearing in**
Rate forwarded to Regional Commissioner of Customs: **Chicago, March 24, 1983**

(K) Company: **Minn-Dak Seeds, Inc.**
Articles: **Canary, sunflower, flax, peas, millet, and rapeseed (98–99% purity)**
Merchandise: **Canary, sunflower, flax, peas, millet, and rapeseed**
Factories: **Donaldson, MN, Drayton, ND**
Statement signed: **January 21, 1983**
Basis of claim: **Appearing in**
Rate forwarded to Regional Commissioner of Customs: **Chicago, February 23, 1983**
Revokes: **Unpublished authorization letter dated December 17, 1982**

(L) Company: **Minn-Dak Seeds Limited**
Articles: **Canary, sunflower, flax, peas, millet, rapeseed, mustard, and buckwheat seeds (98–99% pure)**
Merchandise: **Canary, sunflower, flax, peas, millet, rapeseed, mustard, and buckwheat seeds (field run)**
Factory: **Grand Forks, ND**
Statement signed: **January 21, 1983**
Basis of claim: **Appearing in**

Rate forwarded to Regional Commissioner of Customs: Chicago, February 23, 1983
Revokes: Unpublished authorization letter dated December 17, 1982

(M) Company: Monsanto Company
Articles: Saflex T.G. Film
Merchandise: Santicizer 367 (Di-n-hexyl adipate)
Factories: Indian Orchard, MA; Trenton, MI
Statement signed: November 24, 1982
Basis of claim: Appearing in
Rate forwarded to Regional Commissioners of Customs: New York and Chicago, February 23, 1983
Revokes: T.D. 77-292-R

(N) Company: NCR Corporation
Articles: In-lobby self-service financial terminal
Merchandise: Cash dispenser; magnetic card reader/writer; keyboard; power supply
Factory: Dayton, OH
Statement signed: September 30, 1982
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: Los Angeles (San Francisco Liquidation), March 1, 1983
Revokes: T.D. 82-86-Q

(O) Company: Pfizer Inc.
Articles: N, N Diethyl-M-Toluamide (DEET)
Merchandise: Meta toluic acid
Factory: Greensboro, NC
Statement signed: March 7, 1983
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: New York, April 5, 1983

(P) Company: Pfizer, Inc.
Articles: Cefoperazone Free Acid
Merchandise: Cefoperazone Side Chain
Factory: Groton, CT
Statement signed: November 29, 1982
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: New York, February 28, 1983

(Q) Company: Reisner Metals, Inc.
Articles: Forgings
Merchandise: Titanium alloy billet
Factory: South Gate, CA
Statement signed: September 21, 1982
Basis of claim: Used in, less valuable waste

Rate forwarded to Regional Commissioner of Customs: New York, February 23, 1983

(R) Company: Rohm and Haas Tennessee Incorporated
Articles: Mirrored acrylic plastic sheets
Merchandise: Clear acrylic plastic sheets
Factory: Knoxville, TN
Statement signed: October 15, 1982
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: Boston (Baltimore Liquidation), March 16, 1983

(S) Company: Silberline Manufacturing Co., Inc.
Articles: Aluminum paste
Merchandise: Atomized aluminum powder; unprocessed aluminum paste
Factories: Lansford and Tamaqua, PA; Decatur, IN
Statement signed: March 22, 1982
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: New York, February 23, 1983

(T) Company: Stahmann Farms, Inc.
Articles: Shelled pecan nut meats
Merchandise: In-shell pecan nuts, U.S. No. 1
Factory: Santo Tomas, NM
Statement signed: November 15, 1982
Basis of claim: Used in, less valuable waste
Rate forwarded to Regional Commissioner of Customs: Houston, January 7, 1983

(U) Company: Sun Chemical Corporation
Articles: Sunkem 526G, 1132, 1487, 1445, 1492 (polyamide resins), Permafresh MEL resin for fabric treatment, Mykon 200 Conc. and bases for fabric softeners and antistat
Merchandise: Isononanoic acid, ethylene diamine 98%, Melamine, and hydroxyethyl ethylenediamine
Factory: Chester, SC
Statement signed: August 16, 1982
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: New York, January 21, 1983

(V) Company: Sunoco Terminals, Inc.
Articles: Intermediate grade fuels
Merchandise: Distillate fuel oil, residual fuel oil
Factory: Nederland, TX
Statement signed: October 18, 1982
Basis of claim: Used in

Rate forwarded to Regional Commissioner of Customs: Boston (Baltimore Liquidation), March 10, 1983

(W) Company: Transbas, Inc.
Articles: Herbicides
Merchandise: 2,4-Dichlorophenoxyacetic acid; Methylchlorophenoxyacetic acid
Factory: Billings, MT
Statement signed: Jaunary 5, 1983
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: Los Angeles (San Francisco Liquidation), February 24, 1983

(X) Company: Uniroyal, Inc.
Articles: Tires, tread rubber
Merchandise: Various chemicals, polyester fabric and cord, synthetic rubber, polyethylene wrap, fiberglass tire cord, bronze-plated bead wire, nylon tire cord, brass plated steel tire cord
Factories: Various factories as listed in statement
Statement signed: January 27, 1983
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: New York March 15, 1983

(Y) Company: The Upjohn Company
Articles: 3,3-Dichlorobenzidine dihydrochloride, ortho-chloroaniline
Merchandise: Ortho-Nitrochlorobenzene
Factory: North Haven, CT
Statement signed: September 17, 1982
Basis of claim: Used in, with distribution to the products obtained in accordance with their relative values at the time of separation
Rate forwarded to Regional Commissioner of Customs: New York, March 15, 1983

(Z) Company: Westinghouse Electric Corp.
Articles: Generator transformers, autotransformers, and furnace transformers
Merchandise: Copper wire—rectangular and square, cold-rolled copper sheet and strip, hard copper bars, and insulated copper wire
Factories: Athens, GA; Jefferson City, MO; Sharon, PA; Muncie, IN; South Boston, MA
Statement signed: December 13, 1982
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: New York March 10, 1983

(T.D. 83-255)

Synopses of Drawback Decisions

The following are synopses of drawback rates issued March 30, 1982, to October 21, 1982, inclusive, pursuant to sections 22.1 through 22.5, inclusive, Customs Regulations.

In the synopses below are listed for each drawback rate approved under 19 U.S.C. 1313(a) and (b), the name of the company, the specified articles on which on which drawback is authorized, the merchandise which will be used to manufacture or produce these articles, the factories where the work will be accomplished, the date the statement was signed, the basis for determining payment, the Regional Commissioner to whom the rate was forwarded or issued by, and the date on which it was forwarded or issued.

(DRA-1-09)

Dated: December 5, 1983.

File: 216422.

Edward B. Gable, Jr.,
Director,
Carriers, Drawback and Bonds Division.

(A) Company: AAR Corporation (Brooks and Perkins Division)
Section 1313(a) articles: Airflex storage systems for equipment, machinery, or vehicles
Section 1313(a) merchandise: Butylsheet (synthetic rubber)
Section 1313(b) articles: Boral sheets and strips; spent nuclear fuel storage containers
Section 1313(b) merchandise: Boron carbide powder
Factory: Livonia, MI
Statement signed: April 23, 1982
Basis of claim: Under 1313(b), used in; under 1313(a), appearing in
Rate forwarded to Regional Commissioner of Customs: New York, June 21, 1982

(B) Company: A. Wimpfheimer & Bro., Inc.
Section 1313(a) articles: Velvet cloth
Section 1313(a) merchandise: Rayon yarn
Section 1313(b) articles: Velvet cloth
Section 1313(b) merchandise: Rayon yarn
Factory: Stonington, CT
Statement signed: May 26, 1982
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: Boston, September 24, 1982
Revokes: T.D. 80-94-Y and T.D. 81-190-Z

(C) Company: Adhesive Engineering Company

Section 1313(a) articles: Various adhesives as listed in manufacturer's statement

Section 1313(a) merchandise: Epiclon 80 and other chemicals as listed in manufacturer's statement

Section 1313(b) articles: Various adhesives as listed in manufacturer's statement

Section 1313(b) merchandise: Diethylenetricimine; aminoethylpiperazine; dimethylaminomethyl phenol; tris-2, 4,6-dimethylaminomethyl phenol; dinonyphenol and nonylphenol

Factory: San Carlos, CA

Statement signed: January 15, 1982

Basis of claim: Appearing in

Rate forwarded to Regional Commissioner of Customs: San Francisco, June 3, 1982

(D) Company: The Barry-Wehmiller Co., Filler Systems Div.

Section 1313(a) articles: Bottle-filling machines and manufactured parts

Section 1313(a) merchandise: Various parts as listed in statement and identified by part number

Section 1313(b) articles: Bottle-filling machines and manufactured parts

Section 1313(b) merchandise: Various parts as listed in statement and identified by part number

Factory: Clearwater, FL

Statement signed: May 25, 1982

Basis of claim: Used in

Rate issued by Regional Commissioner of Customs in accordance with section 22.4(0)(2): New York, July 2, 1982

Revokes: T.D. 81-180-W to cover a change in name from Technapac, Inc.

(E) Company: Celeste Industries Corporation

Section 1313(a) articles: Disposable Oshiburi refresher towels

Section 1313(a) merchandise: Cotton terry cloth towels

Section 1313(b) articles: Disposable Oshiburi refresher towels

Section 1313(b) merchandise: Cotton terry cloth towels

Factory: Easton, MD

Statement signed: March 31, 1982

Basis of claim: Appearing in

Rate forwarded to Regional Commissioner of Customs: Baltimore, July 23, 1982

(F) Company: Eli Lilly and Company

Section 1313(a) articles: Fluridone (an herbicide), intermediate, bulk, and finished formulations of Fluridone

Section 1313(a) merchandise: Benzotrifluoride; M-trifluoromethylphenylacetonitrile; methylphenylacetate; sodium methoxide; dimethyl formamide

Section 1313(b) articles: Same as 1313(a)

Section 1313(b) merchandise: Same as 1313(a)

Factories: Lafayette and Greenfield, IN; Whitehall, MI; West Helena, AR; Edison, NJ; Hallister, CA

Statement signed: March 12, 1982

Basis of claim: Used in

Rate forwarded to Regional Commissioner of Customs: Chicago, July 27, 1982

(G) Company: Exxon Corporation, Exxon Company U.S.A. Division

Section 1313(a) articles: Intermediate bunker fuels for vessels

Section 1313(a) merchandise: Marine diesel fuel; Number 6 fuels

Section 1313(b) articles: Intermediate bunker fuels for vessels

Section 1313(b) merchandise: Marine diesel fuel; Number 6 fuels

Factories: Norfolk, VA; Chalmette, LA; Charleston, SC; Long Beach, CA; Everett, MA; Baltimore, MD; and through agents operating under T.D. 55027(2) and 55207(1)

Statement signed: March 30, 1982

Basis of claim: Used in; when "Heel" is present in loading barge, appearing in

Rate forwarded to Regional Commissioner of Customs: Houston, August 30, 1982

(H) Company: General Electric Company

Section 1313(a) articles: Steam turbine-generator sets, steam turbines, steam turbine components and accessories, steam turbine-generator parts, generators, gears, valves

Section 1313(a) merchandise: Steam turbine and generator parts as listed in statement

Section 1313(b) articles: Steam turbine-generator sets, steam turbines, steam turbine components and accessories, steam turbine-generator parts, generators, gears, valves

Section 1313(b) merchandise: Steam turbine and generator parts as listed in statement

Factories: Schenectady, NY; Lynn and Fitchburg, MA; Durham, NC; Bangor and So. Portland, ME; Charleston, SC; Merrimack, NH

Statement signed: June 28, 1982

Basis of claim: Used in (finished parts); Used in, less valuable waste (partially finished parts)

Rate issued by Regional Commissioner of Customs in accordance with section 22.4(0)(2): New York, September 3, 1982

Revokes: T.D. 82-120-G

(I) Company: Glen Raven Mills, Inc.

Section 1313(a) articles: Multilobal bright knit-de-knit polyester yarn, 50 denier
Section 1313(a) merchandise: Bright multilobal polyester yarn, 50 denier
Section 1313(b) articles: Multilobal bright knit-de-knit polyester yarn, 50 denier
Section 1313(b) merchandise: Bright multilobal polyester yarn, 50 denier
Factory: Altamahaw, NC
Statement signed: May 31, 1982
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: Miami, September 8, 1982

(J) Company: Gould, Inc., Modicon Division
Section 1313(a) articles: Finished integrated circuits; electronic modules; printed circuit boards; mainframes, interfaces; cables; programmable process controls; peripherals; various electronic systems
Section 1313(a) merchandise: Terminal block assembly; header assembly; CMOS memory; 4K memory stack; X former PE 50107; unfinished integrated circuits
Section 1313(b) articles: Same as 1313(a)
Section 1313(b) merchandise: Unfinished integrated circuits; connectors
Factory: Andover, MA
Statement signed: November 17, 1981
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: New York, June 11, 1982

(K) Company: Hewlett-Packard Company
Section 1313(a) articles: Various printers and sub-assemblies
Section 1313(a) merchandise: Parts for printers
Section 1313(b) articles: Various printers and sub-assemblies
Section 1313(b) merchandise: Parts for printers
Factories: Various—as listed in statement
Statement signed: March 30, 1982
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: San Francisco, July 23, 1982

(L) Company: Imperial Manufactruring Company
Section 1313(a) articles: Survival suits, helicopter suits, wet suits, gloves, boots, deck suits, flotation rings
Section 1313(a) merchandise: Gloves, boots, snaps, catches, zippers and neoprene in sheets with and without nylon backing

Section 1313(b) articles: Survival suits, helicopter suits, wet suits, gloves, boots, deck suits, flotation rings
Section 1313(b) merchandise: Neoprene in sheets with and without nylon backing and zippers
Factory: Bremerton, WA
Statement signed: February 18, 1982
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: San Francisco, June 22, 1982
Revokes: T.D. 82-23-N

(M) Company: Iroquois Grocery Products, Inc.
Section 1313(a) articles: Caviar, fresh in tins or jars, vacuum packed; hermetically sealed caviar in tins or jars, pasteurized
Section 1313(a) merchandise: Sturgeon caviar (Beluga and Osetra species)
Section 1313(b) articles: Caviar, fresh in tins or jars, vacuum packed; hermetically sealed caviar in tins or jars, pasteurized
Section 1313(b) merchandise: Sturgeon caviar, Sevruga species (Grades 1 and 2); pressed sturgeon caviar (Grades 1 and 2)
Factory: Brooklyn, NY
Statement signed: May 3, 1982
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: New York, October 21, 1982
Revokes: T.D. 51645-C as amended by T.D. 77-59-H; and T.D. 80-243-V (Romanoff Caviar Co.)

(N) Company: J. I. Case, Construction Equipment Division
Section 1313(a) articles: Traveling cranes, excavators, tree harvesters and handlers, industrial material handling machines, and parts thereof
Section 1313(a) merchandise: Steel blanks and plate; castings; forgings; and numerous other parts identified by part number
Section 1313(b) articles: Traveling cranes, excavators, tree harvesters and handlers, industrial material handling machines, and parts thereof
Section 1313(b) merchandise: Steel plate and blanks; castings; forgings; and numerous other parts identified by part number
Factory: Schofield, WI
Statement signed: January 29, 1982
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs in accordance with section 22.4(0)(2): New York, September 15, 1982
Revokes: T.D. 81-45-L, to cover a change in name of company from J. I. Case Co., Drott Div., to J. I. Case, Construction Equipment Div.

(O) Company: Koppers Company Inc., Forest Products Group, Specialty Wood Chemicals Division
Section 1313(a) articles: Chromated copper arsenate wood preservative
Section 1313(a) merchandise: Chromic acid flake; black copper oxide
Section 1313(b) articles: Chromated copper arsenate wood preservative
Section 1313(b) merchandise: Chromic acid flake; black copper oxide
Factories: Conley, GA; Valparaiso, IN; Newark, CA
Statement signed: February 4, 1982
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: Baltimore, March 30, 1982

(P) Company: Ladish Co.
Section 1313(a) articles: Forgings, flanges, pipe fittings, and tubular welding fitting
Section 1313(a) merchandise: Steel and titanium materials in various forms
Section 1313(b) articles: Forgings, flanges, pipe fittings, and tubular welding fitting
Section 1313(b) merchandise: Steel and titanium materials in various forms
Factories: Cudahy and Kenosha, WI; Cynthiana, KY; Russellville, AR; Houston, TX; and Los Angeles, CA
Statement signed: June 1, 1982
Basis of claim: Used in, less valuable waste
Rate forwarded to Regional Commissioner of Customs: New York, Chicago, September 29, 1982
Revokes: T.D. 53931-B as amended by T.D.'s 54547-C, 66-86-D, 74-192-H, 76-70-K and 77-59-L

(Q) Company: Nikko Wolverine Inc.
Section 1313(a) articles: Titanium tubes
Section 1313(a) merchandise: Seamless copper clad titanium tubes
Section 1313(b) articles: Titanium and zirconium products; copper encased billets; tubes; and tubes with copper bonded cores (ti clad)
Section 1313(b) merchandise: Titanium, zirconium and copper billets; copper tubes; and seamless copper clad titanium tubes
Factory: Dearborn Heights, MI
Statement signed: April 7, 1982
Basis of claim: 1313(a), used in; 1313(b), appearing in
Rate forwarded to Regional Commissioner of Customs: New York, August 24, 1982

R) Company: Outboard Marine Corporation
Section 1313(a) articles: Aluminum alloy die castings, stainless steel sheet stampings, motors, lawnmowers, garden equipment, light industrial vehicles, and parts
Section 1313(a) merchandise: Cast iron alloy forgings; aluminum; stainless steel sheets and bar stock; and various parts
Section 1313(b) articles: Same as 1313(a)
Section 1313(b) merchandise: Same as 1313(a)
'actories: Waukegan, Galesburg, IL; Milwaukee, Beloit, Manawa, WI; Lincoln, NE; Sardis, MS; El Paso, TX; Miami, FL
tatement signed: May 14, 1982
Basis of claim: Castings and parts, used in; stainless steel and aluminum, appearing in
ate forwarded to Regional Commissioner of Customs: Chicago, San Francisco, August 10, 1982
Revokes: T.D. 81-301-T

S) Company: Robert Bosch Corporation
ection 1313(a) articles: Fuel injection pumps
ection 1313(a) merchandise: Component parts of injection pumps
ection 1313(b) articles: Fuel injection pumps
ection 1313(b) merchandise: Component parts of injection pumps
actory: Charleston Heights, SC
tatement signed: June 28, 1982
asis of claim: Appearing in
ate forwarded to Regional Commissioner of Customs: New York, Boston (Baltimore Liquidation), October 13, 1982
evokes: T.D. 76-327-T

) Company: Rolm Corporation
ection 1313(a) articles: Electronic equipment
ection 1313(a) merchandise: Electronic assemblies and sub-assemblies, printed circuit board assemblies, electronic components, computer memories, harnesses and other electronic devices
ection 1313(b) articles: Electronic equipment
ection 1313(b) merchandise: Electronic assemblies, electronic computer memories, electronic harnesses, printed wiring assemblies, extended board assemblies, modular assemblies, electronic chassis assemblies, other electronic devices
actories: Santa Clara, CA; Colorado Springs, CO; Austin, TX
atement signed: May 28, 1982
asis of claim: Appearing in
ate forwarded to Regional Commissioner of Customs: San Francisco, September 3, 1982

) Company: Safeguard Engine Parts, Inc.
ction 1313(a) articles: Automotive pistons and oil pumps

Section 1313(a) merchandise: Aluminum alloy ingot, steel piston pins, and powdered metal gears
Section 1313(b) articles: Automotive pistons and oil pumps
Section 1313(b) merchandise: Aluminum alloy ingot, steel piston pins, and powdered metal gears
Factory: Marinette, WI
Statement signed: July 15, 1982
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: Chicago, October 5, 1982

(V) Company: Sandvik, Inc.
Section 1313(a) articles: Bare welding electrodes
Section 1313(a) merchandise: Stainless steel and nickel round wire or welding wire
Section 1313(b) articles: Bare welding electrodes
Section 1313(b) merchandise: Stainless steel and nickel automatic welding wire
Factory: Waverly, PA
Statement signed: March 8, 1982
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: New York, July 2, 1982

(W) Company: Standard Chlorine of Delaware, Inc.
Section 1313(a) articles: Chlorine gas
Section 1313(a) merchandise: Liquid Chlorine
Section 1313(b) articles: Paradichlorobenzene (PDCB)
Section 1313(b) merchandise: Chlorine gas
Factory: Delaware City, DE
Statement signed: June 10, 1982
Basis of claim: Used in, for 1313(a); for 1313(b), used in, with distribution of drawback to the products obtained in accordance with their relative values at the time of separation
Rate forwarded to Regional Commissioner of Customs: New York July 14, 1982

(X) Company: Tandem Computers Incorporated Section 1313(a) articles: Subassemblies, printed wiring assemblies and computer systems
Section 1313(a) merchandise: Disc drive, monitor, 32K eprom
Section 1313(b) articles: Subassemblies, printed wiring assemblie and computer systems
Section 1313(b) merchandise: Various semiconductors
Factories: Cupertino, Santa Clara, Sunnyvale, San Jose, Watso ville (2), CA; Austin, TX; Reston, VA
Statement signed: June 4, 1982
Basis of claim: Appearing in

Rate forwarded to Regional Commissioner of Customs: San Francisco, July 2, 1982

(Y) Company: Whittaker Corp., Survival Systems Div.
Section 1313(a) articles: Survival capsules
Section 1313(a) merchandise: Engines, gas and diesel; air cylinder tanks
Section 1313(b) articles: Survival systems (vessel, winch, platform)
Section 1313(b) merchandise: Steel plate
Factories: La Mesa and Santee, CA
Statement signed: May 18, 1982
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: Los Angeles, August 6, 1982

(Z) Company: Xerox Corporation
Section 1313(a) articles: Reprographic machine and peripheral equipment and related tools, parts and assemblies thereof; components and reprographic supplies
Section 1313(a) merchandise: Castings, tools, blanks, parts, assemblies, subunits, accessories and supplies
Section 1313(b) articles: Reprographic machine and peripheral equipment and related tools, parts and assemblies thereof, components and reprographic supplies
Section 1313(b) merchandise: Castings, tools, blanks, parts, assemblies, subunits, accessories and supplies
Factories: Various, as listed in statement
Statement signed: June 30, 1982
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: Boston, July 23, 1982
Revokes: T.D. 80-94-Z

Fiat-Allis Construction Machinery, Inc. operating under T.D.s 80-154-H, 81-180-H, and 81-190-H has changed its name to Fiat Allis North America, Inc.

Honeywell, Inc. operating under T.D. 78-255-I has changed its name to Honeywell Information Systems, Inc.

(T.D. 83-256)

Synopses of Drawback Decisions

The following are synopses of drawback rates issued February 9, 1983, to May 26, 1983, inclusive, pursuant to sections 22.1 through 22.5, inclusive, Customs Regulations.

In the synopses below are listed for each drawback rate approved under 19 U.S.C. 1313(a), the name of the company, the specified articles on which drawback is authorized, the merchandise which will be used to manufacture or produce these articles, the factories where the work will be accomplished, the date the statement was signed, the basis for determining payment, the Regional Commissioner who issued the rate, and the date on which it was signed.

(DRA-1-09)

File: 216415

Dated: December 5, 1983.

EDWARD B. GABLE, Jr.,
Director,
Carriers, Drawback and Bonds Division.

(A) Company: American Thread Company
Articles: 30/2 "spun poly" yarn
Merchandise: imported 1,2 Denier 1.5 inch cut (38mm) polyester staple
Factory: Marble, NC
Statement signed: January 6, 1983
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: Miami, March 10, 1983

(B) Company: Barnett International, Inc.
Articles: Crossbows and slingshots
Merchandise: Imported crossbow components and parts, and slingshot components and parts
Factory: Odessa, FL
Statement signed: April 14, 1983
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: Miami, April 29, 1983

(C) Company: Biocraft Laboratories, Inc.
Articles: Pharmaceuticals in various forms, including tablets, capsules and ointment
Merchandise: Imported raw pharmaceutical materials
Factories: Waldwick and Elmwood Park, NJ
Statement signed: January 12, 1983
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: New York, April 5, 1983

(D) Company: Bollman Industries, Inc.
Articles: Wool, mohair, cashmere, camel hair, and alpaca; in the grease, bench sorted and/or scoured
Merchandise: Imported wool, mohair, cashmere, camel hair and alpaca
Factory: San Marcos, TX

Statement signed: June 14, 1982
Basis of claim: Used in, less valuable waste, with distribution to the products obtained in accordance with their relative values at the time of separation
Rate issued by Regional Commissioner of Customs: New York, March 15, 1983

(E) Company: Borne Chemical Company, Inc.
Articles: Finished marine lubricating oils
Merchandise: Imported lubricating oil concentrates
Factory: Elizabeth, NJ
Statement signed: February 2, 1983
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: New Orleans, May 5, 1983
Revokes: T.D. 81-40-F

(F) Company: Ciba-Geigy Corporation
Articles: Diazinon Technical
Merchandise: Imported rheoplast 39
Factory: McIntosh, AL
Statement signed: February 3, 1983
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: New York, March 15, 1983

(G) Company: Delta Petroleum Co., Inc.
Articles: Finished marine lubricating oils
Merchandise: Imported lubricating oil concentrates
Factory: Metairie, LA
Statement signed: February 3, 1983
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: New Orleans, May 23, 1983
Revokes: T.D. 82-23-E

(H) Company: Dow Corning Corporation
Articles: Dow Corning roof coating
Merchandise: Imported methylethylketoxime silane
Factory: Elizabethtown, KY
Statement signed: January 12, 1983
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: New York, March 4, 1983

(I) Company: Drexel Chemical Company
Articles: Dimethoate agricultural insecticide
Merchandise: Imported Dimethoate technical 94%
Factory: Tunica, MS

READEX FICHE pages tightly bound

Statement signed: April 21, 1983
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: New Orleans, May 6, 1983

(J) Company: Ferranti-Packard Transformers, Inc.
Articles: Power transformers
Merchandise: Various imported component parts of power transformers
Factory: Dunkirk, NJ
Statement signed: October 7, 1982
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: New York, March 4, 1983

(K) Company: Fiberite Corporation
Articles: Prepreg plastic composite
Merchandise: Imported synthetic carbon yarn
Factories: Winona, MN; Greenville, TX
Statement signed: January 14, 1983
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: New York, March 29, 1983

(L) Company: Hemisphere Oil Company, Inc.
Articles: Marine lubricating oils
Merchandise: Imported marine lubricating oil concentrates
Factory: Yabucoa, PR
Statement signed: March 8, 1983
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: Miami, April 18, 1983

(M) Company: Hilti Industries, Inc.
Articles: HDI drop-in anchors
Merchandise: Imported tectyl-coated iron plugs
Factory: Tulsa, OK
Statement signed: August 16, 1982
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: New York, February 23, 1983

(N) Company: Massey-Ferguson, Inc.
Articles: Built-up tractors and front-end loaders with mounted backhoes and other attachments
Merchandise: Imported built-up tractors and front-end loaders
Factory: Detroit, MI
Statement signed: November 16, 1982
Basis of claim: Used in

Rate issued by Regional Commissioner of Customs: New York, February 23, 1983

(O) Company: Otis Engineering Corp.
Articles: Peripheral oil well equipment
Merchandise: Imported Sumitomo DP-3 duplex SM-25CR seamless stainless steel cold drawn tubing
Factories: Carrollton, Graham, and Cisco, TX
Statement signed: January 14, 1983
Basis of claim: Used in, less valuable waste
Rate issued by Regional Commissioner of Customs: Los Angeles (San Francisco Liquidation), April 19, 1983

(P) Company: Pfizer, Inc.
Articles: Cefoperazone free acid
Merchandise: Imported 1-Methyl-1H-Tetrazole-5-Thiol
Factory: Groton, CT
Statement signed: November 29, 1982
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: New York, February 23, 1983

(Q) Company: Polarome Manufacturing Company, Inc.
Articles: Lemon fragrance
Merchandise: Imported lemon fragrance Key MS
Factories: Newark, NJ; New York, NY
Statement signed: February 2, 1983
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: New York, April 25, 1983

(R) Company: PSI West
Articles: Extruded and formed lenses and diffusers for lighting
Merchandise: Imported plastics polymer methyl methacrylate resin
Factories: City of Industry, CA; Memphis, TN
Statement signed: March 10, 1983
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: Los Angeles, March 22, 1983

(S) Company: Schirmer-National Co.
Articles: Cameras
Merchandise: Imported camera lenses
Factory: Bergenfield, NJ(2)
Statement signed: July 20, 1982
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: New York, March 15, 1983
Revokes: T.D. 76-327-D

(T) Company: Sky's The Limit
Articles: Exercise boots
Merchandise: Imported buckles
Factory: Sumner, WA
Statement signed: March 12, 1983
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: Los Angeles (San Francisco Liquidation), May 9, 1983

(U) Company: Smith and Wesson Co.
Articles: Completed rifles and shotguns
Merchandise: Imported rifle and shotgun parts
Factories: Rock Creek, OH; Springfield, MA
Statement signed: November 5, 1982
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: Boston, March 31, 1983

(V) Company: Spring Industries, Inc.
Articles: Bleached, dyed and/or printed piece goods
Merchandise: Imported piece goods
Factory: Lancaster, SC
Statement signed: December 22, 1982
Basis of claim: Used in, less valuable waste
Rate issued by Regional Commissioner of Customs: New York, February 23, 1983

(W) Company: Syntex Laboratories, Inc.
Articles: Noriday tablets
Merchandise: Imported norethindrone and mestranol
Factory: Palo Alto, CA
Statement signed: April 20, 1983
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: Los Angeles (San Francisco Liquidation), May 26, 1983
Revokes: T.D. 81-122-T

(X) Company: Uniroyal, Inc.
Articles: Aranox; VDEE; Celogen-751, 754, 765, RA, RA-AZ, TSH and XP-100
Merchandise: Imported para toluene sulfonyl chloride (PTSC)
Factory: Naugatuck, CT
Statement signed: February 16, 1983
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: New York, March 29, 1983

(Y) Company: Uniroyal, Inc.
Articles: Fungicides

Merchandise: Imported vitavax technical carboxin, triram, captan, and plantvax technical
Factories: Naugatuck, CT; Gastonia, NC
Statement signed: January 7, 1983
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: New York, February 9, 1983

(Z) Company: Uniroyal, Inc.
Articles: Trivax, Harvade, and Harvade 5F
Merchandise: Imported acetoin and aluminum chloride
Factories: Naugatuck, CT; Gastonia, NC
Statement signed: January 7, 1983
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: New York, February 9, 1983

Ford Aerospace and Communications Corp., operating under T.D. 82-205-G, has changed its name to Ford Electronics and Refrigeration Corp.

(T.D. 83-257)

Synopses of Drawback Decisions

The following are synopses of drawback rates issued March 18, 1983, to May 10, 1983, inclusive, pursuant to sections 22.1 through 22.5, inclusive, Customs Regulations.

In the synopses below are listed for each drawback rate approved under 19 U.S.C. 1313(b), the name of the company, the specified articles on which drawback is authorized, the merchandise which will be used to manufacture or produce these articles, the factories where the work will be accomplished, the date the statement was signed, the basis for determining payment, the Regional Commissioner to whom the rate was forwarded, and the date on which it was forwarded.

DRA-1-09

Dated: December 5, 1983.

File: 216418.

EDWARD B. GABLE, JR.,
Director,
Carriers, Drawback and Bonds Division.

(A) Company: Compo Industries, Inc.
Articles: Polyurethane coated materials
Merchandise: Various polyurethanes
Factory: Lowell, MA
Statement signed: August 11, 1982

Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: New York, April 25, 1983

(B) Company: CYRO Industries
Articles: Acrylic FF sheet
Merchandise: Acrylic homopolymer moulding compound H15(20)
Factory: Sanford, ME
Statement signed: July 22, 1982
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: New York, May 10, 1983

(C) Company: The Dow Chemical Company
Articles: 2-Methyl-4-Chlorophenoxyacetic acid; mixed butyl esters of 2-Methyl-4-Chlorophenoxyacetic acid; 2-Methyl-4-Chlorophenoxyacetic amine
Merchandise: p-Chloro-o-cresol
Factory: Midland, MI
Statement signed: March 16, 1983
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: Chicago, April 12, 1983

(D) Company: Eastman Kodak Company
Articles: Resorcinol Monobenzoate; 2-Hydroxy-4-Dodecyloxy-benzophenone; Tenite butyrate and Propionate formulas
Merchandise: Resorcinol and Benzoyl Chloride
Factory: Kingsport, TN
Statement signed: December 14, 1982
Basis of claim: Appearing in for Tenite butyrate and Propionate formulas; used in for other articles
Rate forwarded to Regional Commissioner of Customs: Boston (Baltimore Liquidation), April 18, 1983

(E) Company: Eastman Kodak Company
Articles: Polyester dyes
Merchandise: Meta-Nitroaniline
Factory: Kingsport, TN
Statement signed: December 14, 1982
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: Boston (Baltimore Liquidation), April 18, 1983

(F) Company: Eastman Kodak Company
Articles: Dyes
Merchandise: 2-Methoxyethylamine
Factory: Kingsport, TN
Statement signed: December 14, 1982

Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: Boston (Baltimore Liquidation), April 13, 1983

(G) Company: Eastman Kodak Company
Articles: Polyester dyes
Merchandise: 1,8-Dichloroanthraquinone
Factory: Kingsport, TN
Statement signed: December 14, 1982
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: Boston (Baltimore Liquidation), April 18, 1983

(H) Company: Eli Lilly and Company
Articles: Cefaclor monohydrate in bulk; all finished product formulations of Ceclor; P-nitrobenzyl ester of PVSO
Merchandise: D-alpha phenylglycine levorotatory; phenylglycine derivative sodium salt; dimethylformamide; triethylamine; semicarbazide hydrochloride; methyl acetoacetate; penicillin V potassium intermediate; cefaclor intermediate; P-nitrobenzyl bromide; phenoxyacetic acid; potassium acetate solution 80%; potassium acetate tech; potassium bicarbonate; sodium chloroacetate tech; exomethylene Ceph-V sulfoxide ester; enol sulfoxide ester; 7-amino-3-chloro Cephem ester
Factories: Lafayette, Clinton and Indianapolis, IN
Statement signed: November 24, 1982
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: Chicago, April 15, 1983
Revokes: T.D. 82-86-P

(I) Company: Ex-Cell-O Corporation
Articles: Titanium alloy finished machine parts
Merchandise: Titanium alloy rough forgings
Factories: East Windsor, CT; Elwood, IN; Orlando, FL; Fostoria and Lima, OH
Statement signed: January 13, 1983
Basis of claim: Used in, less valuable waste
Rate forwarded to Regional Commissioner of Customs: New York, May 10, 1983

(J) Company: Fiberglass Resources Corporation
Articles: Fiberglass pipe and fittings
Merchandise: Methyl tetrahydro phthalic anhydride (hardner)
Factory: Farmingdate, NY
Statement signed: January 27, 1983
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: New York, April 12, 1983

(K) Company: Howmet Turbine Components Corporation
Articles: Titanium alloy ingots and mill products; billets, bars and castings
Merchandise: Titanium sponge and on a pound for pound basis of the titanium content in titanium alloy scrap for designated titanium sponge
Factories: Whitehall, MI; Reno, NV
Statement signed: October 15, 1982
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: New York, May 3, 1983

(L) Company: J. H. Westerbeke Corporation
Articles: Marine diesel engines, marine diesel generator sets, and sound guards
Merchandise: Bellhousing, elbow, nipple, damper (clutch plates), engine block, transmission, corner, and back-end alternator identified by part number
Factory: Avon, MA
Statement signed: February 24, 1983
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: Boston, April 21, 1983

(M) Company: Metec Incorporated
Articles: Tungsten powder; Tungsten pellets; Molybdenum Powder; Molybdenum pellets
Merchandise: Ammonium paratungstate Ammonium dimolybdate; Molybdic Oxide
Factory: Winslow, NJ
Statement signed: March 1, 1983
Basis of claim: Appearing in, per T.D. 82–36
Rate forwarded to Regional Commissioner of Customs: New York, May 6, 1983

(N) Company: Miranol Chemical Co., Inc.
Articles: Amophoteric surface active agents (soaps) as listed in the manufacturer's statement
Merchandise: Tridecyl ethoxy sulfate, Lauric acid, Caprylic acid, Capric acid, dichloroethylether, dimethylaminopropylamine, sodium bisulfite, sodium monochloroacetate, monochloroacetic acid flake, and monochloroacetic acid (80% liquid)
Factory: Dayton, NJ
Statement signed: October 6, 1982
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: New York, March 18, 1983
Revokes: T.D. 79–230–M

(O) Company: Oregon Metallurgical Corporation
Articles: Titanium alloy ingots and mill products; billets and bars
Merchandise: Titanium sponge and on a pound for pound basis of the titanium content in titanium alloy scrap for designated titanium sponge
Factory: Albany, OR
Statement signed: January 6, 1983
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: New York, May 3, 1983

(P) Company: Sandvik Special Metals Corporation
Articles: Seamless zirconium alloy tubing
Merchandise: Zircaloy-4 reduced extrusion (TREX) (tube hollows)
Factory: Kennewick, WA
Statement signed: September 30, 1982
Basis of claim: Used in, less valuable waste
Rate forwarded to Regional Commissioner of Customs: Los Angeles (San Francisco Liquidation), May 6, 1983

(Q) Company: Saunders Manufacturing Company, Inc.
Articles: Office products such as forms holders and billboards as listed in manufacturer's statement
Merchandise: Aluminum in sheet and coil (A.A. alloys 5052-H32, 5005-H34, 3003-H14, 3105-H32
Factory: Readfield, ME
Statement signed: February 23, 1983
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: Boston, May 10, 1983

(R) Company: SICPA North America
Articles: Aluglas varnishes
Merchandise: Polyester resins and isocyanates
Factory: Paterson, NJ
Statement signed: March 14, 1983
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: New York, May 10, 1983

(S) Company: Sifco Forge Group
Articles: Titanium alloy rough forgings
Merchandise: Titanium alloy billets
Factories: Cleveland and Byesville, OH; Ferndale, MI
Statement signed: January 6, 1983
Basis of claim: Used in, less valuable waste
Rate forwarded to Regional Commissioner of Customs: New York, May 10, 1983

(T) Company: Teledyne Allvac
Articles: Titanium alloy ingots and mill products; billets and bars
Merchandise: Titanium sponge and on a pound for pound basis of the titanium content in titanium alloy scrap for designated titanium sponge
Factory: Monroe, NC
Statement signed: September 3, 1982
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: New York and Boston (Baltimore Liquidation), May 3, 1983

(U) Company: Thermo King Caribbean, Inc.
Articles: Transport refrigeration units
Merchandise: Diesel engines
Factory: Ciales, PR
Statement signed: April 18, 1983
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: New York, May 10, 1983

(V) Company: Thermo King Corporation
Articles: Transport refrigeration units
Merchandise: Diesel engines
Factories: Minneapolis, MN; Louisville, GA; Hastings, NE
Statement signed: September 30, 1982
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: New York, May 10, 1983

(W) Company: Thermo King de Puerto Rico, Inc.
Articles: Transport refrigeration units
Merchandise: Diesel engines
Factory: Arecibo, PR
Statement signed: April 18, 1983
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: New York, May 10, 1983

(X) Company: Union Carbide Corporation
Articles: Polyethylene resins
Merchandise: High density polyethylene feed stocks
Factory: Port Lavaca, TX
Statement signed: February 14, 1983
Basis of claim: Used in, with distribution to the products obtained in accordance with their relative values at the time of separation
Rate forwarded to Regional Commissioner of Customs: New York, April 21, 1983
Revokes: T.D. 83-58-X

(Y) Company: Uniroyal, Inc.
Articles: Toothed belts
Merchandise: Glass cord; rubber; nylon stretch fabric; wire
Factory: Moncks Corner, SC
Statement signed: February 8, 1983
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: New York, May 10, 1983

(Z) Company: Valpey—Fisher Corporation
Articles: Finished quartz crystals (with ground leads attached)
Merchandise: Finished quartz crystals (without ground leads) and blank crystals (crystals without holders)
Factory: Hopkinton, MA
Statement signed: February 8, 1983
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: Boston, May 3, 1983

(T.D. 83-258)

Synopses of Drawback Decisions

The following are synopses of drawback rates issued June 23, 1983, to August 30, 1983, inclusive, pursuant to sections 22.1 through 22.5, inclusive, Customs Regulations.

In the synopses below are listed for each drawback rate approved under 19 U.S.C. 1313(b), the name of the company, the specified articles on which drawback is authorized, the merchandise which will be used to manufacture or produce these articles, the factories where the work will be accomplished, the date the statement was signed, the basis for determining payment, the Regional Commissioner to whom the rate was forwarded or issued by, and the date on which it was forwarded or issued.

(DRA-1-09)

Dated: December 5, 1983.

File: 216419.

EDWARD B. GABLE, Jr.
Director,
Carriers, Drawback and Bonds Division.

(A) Company: Advance Offset Plate, Inc.
Articles: Litho Printing Plates
Merchandise: Aluminum Litho Coils
Factory: Holyoke, MA
Statement signed: June 24, 1983
Basis of claim: Appearing in

Rate forwarded to Regional Commissioner of Customs: Boston, Jul
27, 1983

(B) Company: American Cyanamid Company
Articles: Agricultural insecticides
Merchandise: Methanol
Factory: Linden, NJ
Statement signed: August 2, 1984
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: New York
August 30, 1983
Revokes: T.D. 72-80-E

(C) Company: BASF Wyandotte Corporation
Articles: Vitamin A Feed Powders (Vitamin A A650; Vitamin
A500; Vitamin A A650/D-325)
Merchandise: Vitamin A Acetate, Feed Grade
Factory: Wyandotte, MI
Statement signed: May 18, 1983
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: New York
August 24, 1983

(D) Company: Cannon Mills Company
Articles: Towels
Merchandise: Cotton yarn
Factories: Kannapolis, NC; York, SC; Charlotte, NC; Columbia, SC
Gaffney, SC; Greensboro, NC; Lebanon, PA
Statement signed: May 26, 1983
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: New York
August 24, 1983

(E) Company: Clark-Schwebel Fiber Glass Corp.
Articles: Fiber Glass fabric
Merchandise: Fiber glass yarn
Factories: Anderson, SC; Cleveland and Washington, GA
Statement signed: June 15, 1983
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: Miami, Jul
20, 1983

(F) Company: Crescent Leather Finishing Co, Inc.
Articles: Pigment colored and surface textured leather
Merchandise: Leather in the rough, partially finished or finished
Factory: Johnstown, NY
Statement signed: May 20, 1983
Basis of claim: Appearing in

Rate forwarded to Regional Commissioner of Customs: New York, July 20, 1983
Revokes: T.D. 81-123-H

(G) Company: Cutler Dairy Products, Inc.,
Articles: Various frozen and dried egg products
Merchandise: Eggs in the shell (Chicken)
Factory: Philadelphia, PA
Statement signed: March 1, 1983
Basis of claim: Used in, with distribution to the products obtained in accordance with their relative values at the time of separation
Rate forwarded to Regional Commissioner of Customs: Boston (Baltimore Liquidation), August 29, 1983

(H) Company: Dow Chemical Company
Articles: Telone C-17
Merchandise: 1,3-Dichloropropene (Telone II)
Factories: Plaquemine, LA; Midland, MI; Freeport, TX
Statement signed: April 19, 1983
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: Chicago, August 12, 1983

(I) Company: Griffin Corporation
Articles: Flowable triphenyltin hydroxide
Merchandise: Triphenyltin hydroxide
Factory: Valdosta, GA
Statement signed: March 28, 1983
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: Miami, August 2, 1983

(J) Company: Gulf Oil Corporation
Articles: Polypropylene
Merchandise: Propylene
Factory: Baytown, TX
Statement signed: August 12, 1982
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: Houston, August 12, 1983

(K) Company: Indian River Foods, Inc.
Articles: Orange juice from concentrate, frozen concentrated orange juice and bulk concentrated orange juice
Merchandise: Concentrated orange juice for manufacturing and orange juice from concentrate
Factory: Ft. Pierce, FL
Statement signed: May 27, 1983
Basis of claim: Used in

Rate forwarded to Regional Commissioner of Customs: Miami, August 12, 1983

(L) Company: Ionics, Inc.
Articles: Anion-exchange membranes and various electrodialysis plants
Merchandise: Vinyl benzyl chloride
Factory: Watertown, MA
Statement signed: August 23, 1983
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: Boston, August 30, 1983

(M) Company: K-2 Corporation
Articles: Snow skis
Merchandise: L-shaped roll formed steel in coils; p-tex plastic sheeting
Factory: Vashon Island, WA
Statement signed: April 26, 1983
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: Los Angeles (San Francisco Liquidation), July 13, 1983
Revokes: T.D. 83-15-K

(N) Company: Levi Strauss & Co.
Articles: Pants, jackets, and other apparel articles
Merchandise: Finished and unfinished piece goods
Factory: San Francisco, CA
Statement signed: April 5, 1983
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: Los Angeles (San Francisco Liquidation), August 29, 1983

(O) Company: McGraw-Edison Company, Wagner Division
Articles: Brake Fluid
Merchandise: Isobutyl alcohol
Factory: Berkeley, MO
Statement signed: July 20, 1983
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: New York, August 5, 1983

(P) Company: Merck & Co., Inc.
Articles: Thiabendazole (trade names: TBZ Microfine (R); TBZ Veterinary (R); TBZ Veterinary for Preform Suspensions (R); and TECTO Antimycotic (R))
Merchandise: Methyl Alcohol (Methanol)
Factory: Rahway, NJ
Statement signed: June 1, 1983

Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: New York, July 15, 1983

(Q) Company: Merck & Co., Inc.
Articles: Ethopabate
Merchandise: Para-aminosalicylic Acid
Factory: Danville, PA
Statement signed: July 7, 1983
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: New York, August 9, 1983

(R) Company: Modine Manufacturing Company
Articles: Heat exchangers, radiators, coolers, and other heat transfer products and parts
Merchandise: Copper and copper alloy sheet, strip and plate; copper tube; brass tube; brass alloy sheet, strip plate and tube
Factories: Whittier, CA; Bloomington and McHenry, IL; Logansport and LaPorte, IN; Emporia, KS; Jefferson City, Joplin and Trenton, MO; Pemberville, OH (2); Clinton, Knoxville and Lawrenceburg, TN; Buena Vista, VA; Racine, WI
Statement signed: June 13, 1983
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs in accordance with section 22.4(0)(2): Chicago, June 23, 1983
Revokes: T.D. 81-78-T

(S) Company: National Spinning Company, Inc.
Articles: Dyed or undyed acrylic yarn
Merchandise: Acrylic top
Factories: Warsaw, Washington, Whiteville, and Beulaville, NC
Statement signed: July 18, 1983
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: New York, August 10, 1983

(T) Company: Occidental Chemical Corporation
Articles: Phenolic molding compounds
Merchandise: Orient Nigrosine SA and SAP Grades
Factories: North Tonawanda, NY; Kenton, OH
Statement signed: July 13, 1983
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs in accordance with section 22.4(0)(2): New York, August 24, 1983
Revokes: T.D. 79-281-L, to cover successorship from the Hooker Chemical and Plastics Corporation, Durez Division

(U) Company: Occidental Chemical Corporation

Articles: Polyvinyl chloride (PVC) compounds
Merchandise: Kane ACE B-22 Impact Modifier (MABS resin)
Factory: Burlington, NJ
Statement signed: June 15, 1983
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs in accordance with section 22.4(0)(2): New York, August 11, 1983
Revokes: T.D. 78-258-R, to cover successorship from the Hooker Chemical and Plastics Corporation, Ruco Division

(V) Company: Reynolds Metals Company
Articles: Aluminum and aluminum alloy products
Merchandise: Aluminum and aluminum alloy in various forms
Factories: Several locations, including Ewa Beach, HA
Statement signed: January 26, 1972
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs in accordance with section 22.4(0)(2): New York, July 13, 1983
Amends: T.D. 72-75-A, to cover addition of factory at Ewa Beach, HA

(W) Company: Rogers Corporation
Articles: Phenolic molding compounds, DAP (Diallyl Phthalate) molding compounds, and Phenolic sheet molding board
Merchandise: Ortho Diallyl Phthalate, Diallyl Iophalate Prepolymer, chopped strand fiberglass, and formaldehyde novolacs
Factory: Manchester, CT
Statement signed: September 21, 1982
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: New York, July 18, 1983

(X) Company: Rohm and Haas Bayport, Inc.
Articles: Herbicides, Rohm and Haas Generic CED, including but not limited to Blazer 224L and Blazer Technical
Merchandise: 3,4 Dichloro Benzotrifluoride
Factory: La Porte, TX
Statement signed: May 16, 1983
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: Boston (Baltimore Liquidation), August 4, 1983

(Y) Company: Rohm and Haas Bayport, Inc.
Articles: Diphenylethers (Herbicides)
Merchandise: Meta-hydroxylbenzoic Acid
Factory: La Porte, TX
Statement signed: May 16, 1983
Basis of claim: Used in

Rate forwarded to Regional Commissioner of Customs: Boston (Baltimore Liquidation), August 5, 1983

(Z) Company: Shell Oil Company, Shell Chemical Company Division
Articles: Technical Nudrin ®Insecticide
Merchandise: Acetaldoxime (AAO)
Factory: Commerce City, CO
Statement signed: June 14, 1983
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: Houston, August 2, 1983

Eaton Corporation Axle Division, operating under T.D. 81-281-J, has changed its name to Eaton Corporation Axle and Brake Division.

(T.D. 83-259)

Synopses of drawback decisions

The following are synopses of drawback rates issued November 10, 1982, to March 15, 1983, inclusive, pursuant to sections 22.1 through 22.5, inclusive, Customs Regulations; and approvals under section 22.6, Customs Regulations.

In the synopses below are listed for each drawback rate approved under 19 U.S.C. 1313(b), the name of the company, the specified articles on which drawback is authorized, the merchandise which will be used to manufacture or produce these articles, the factories where the work will be accomplished, the date the statement was signed, the basis for determining payment, the Regional Commissioner to whom the rate was forwarded or issued by, and the date on which it was forwarded or issued.

Dated: December 5, 1983.

File: 21614.

Edward B. Gable, Jr.,
Director,
Carriers, Drawback and Bonds Division.

(A) Company: Allegheny Ludlum Steel Corporation
Articles: Stainless steel products
Merchandise: Low and high carbon ferrochrome; low carbon ferrochrome silicon; standard high carbon manganese; silicon manganese
Factories: Brackenridge, Coatesville and Leechburg, PA; New Castle, IN; Wallingford, CT; Claremore, OK
Statement signed: February 17, 1983
Basis of claim: Appearing in

Rate issued by Regional Commissioner of Customs in accordance with section 22.4(0)(2): New York, March 15, 1983
Revokes: T.D. 82-86-B

(B) Company: Arrowfish, Inc. dba Arrowac Fisheries
Articles: Dogfish fillets, bellies, and fins
Merchandise: Whole shark
Factories: Bellingham, and Ferndale, WA
Statement signed: September 21, 1982
Basis of claim: Used in, less valuable waste
Rate forwarded to Regional Commissioner of Customs: Los Angeles (San Francisco Liquidation), January 21, 1983

(C) Company: Borden, Inc., Bama Food Products Division
Articles: Peanut butter; Peanut butter and jelly (a product)
Merchandise: Peanuts meeting USDA Runner Type, Grade 1
Factory: Birmingham, AL
Statement signed: September 7, 1982
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: New York, February 16, 1983

(D) Company: Borden, Inc., Deran Confectionery Division
Articles: Candy and confectionery
Merchandise: Peanuts meeting USDA Virginia #1 standard
Factory: Cambridge, MA
Statement signed: September 13, 1982
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: New York, February 16, 1983

(E) Company: Cargill, Inc.
Articles: Raw linseed oil and linseed meal
Merchandise: Flaxseed
Factories: Minneapolis, MN; Riverside, ND
Statement signed: October 4, 1982
Basis of claim: Used in, with distribution to the products obtained in accordance with their relative values at the time of separation
Rate issued by Regional Commissioner of Customs in accordance with section 22.4(0)(2): Chicago, December 21, 1982
Revokes: T.D. 73-236-M

(F) Company: Donn Products, Inc.
Articles: Wall and ceiling systems and components thereof
Merchandise: Hot and cold rolled steel sheet, strip and blanks; galvanized steel sheet, strip and blanks; aluminum sheet, strip and blanks; and black plate in sheet, strip and blanks (all the foregoing painted and unpainted)
Factory: Lackawanna, NY

Statement signed: September 23, 1982
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: New York, February 7, 1983

(G) Company: The Dow Chemical Company
Articles: Plictran 25-W; Plictran 50-W
Merchandise: Tricyclohexytin hydroxide
Factory: Clarksdale, MS
Statement signed: October 15, 1982
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs in accordance with section 22.4(0)(2): Chicago, November 10, 1982
Revokes: T.D. 81-123-I

(H) Company: Eli Sandman Co.
Articles: Resin-impregnated open-mesh woven fiberglass fabrics and pieces (especially discs) cut therefrom
Merchandise: Greige woven fiberglass fabric
Factory: Worcester, MA
Statement signed: January 15, 1983
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: Boston, February 8, 1983
Revokes: Unpublished authorization letter dated January 3, 1983

(I) Company: Enterra Corporation, National Form System Division
Articles: Aqueous film forming fire fighting products and fluoroprotein products
Merchandise: Perfluorocarboxylic acid (PFC)
Factory: West Chester, PA
Statement signed: November 1, 1982
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: New York, January 10, 1983

(J) Company: GAF Corporation
Articles: Formaldehyde chemicals; vinyl ether chemicals, complete listing, schedule "A"
Merchandise: Methanol
Factories: Linden, NJ; Texas City, TX; Calvert, KY
Statement signed: January 4, 1983
Basis of claim: Used in, with distribution of drawback to the products obtained in accordance with their relative values at the time of separation
Rate forwarded to Regional Commissioner of Customs: New York, February 7, 1983
Revokes: T.D.'s 70-12-B and 71-44-J

(K) Company: Hardwicke Chemical Company
Articles: Meta-phenoxybenzyl alcohol; meta-phenoxybenzaldehyde
Merchandise: Meta-cresol
Factory: Elgin, SC
Statement signed: December 10, 1982
Basis of claim: Used in, with the distribution to the products obtained in accordance with their relative values at the time of separation
Rate forwarded to Regional Commissioner of Customs: Miami and Boston (Baltimore Liquidation), January 21, 1983

(L) Company: Holyoke Wire Cloth Company
Articles: Strand wire (made from redraw wire), woven wire cloth endless belts
Merchandise: Metal redraw wire, metal strand wire, plastic filament (solid monofilament PVDF, polyethylene, polyester, or polypropylene
Factory: Holyoke, MA
Statement signed: May 7, 1982
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: New York January 7, 1983

(M) Company: Kay-Fries, Inc.
Articles: D-(-)-alpha-phenylglycine (PGM)
Merchandise: d-Camphor Sulfonic Acid (d-CSA)
Factory: Stony Point, NY
Statement signed: January 14, 1983
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: New York February 8, 1983

(N) Company: The Lubrizol Corporation
Articles: Intermediate and finished oil additives
Merchandise: Oleyl Cetyl Alcohol
Factories: Painesville, OH; Deer Park, and Pasadena, TX
Statement signed: July 19, 1982
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: Chicago January 21, 1983

(O) Company: Meredith Corporation
Articles: Magazines (complete)
Merchandise: Machine coated gravure paper; magazine sections
Factory: Des Moines, IA
Statement signed: December 21, 1982
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: New York January 20, 1983

Revokes: T.D. 80-245-0

(P) Company: Minnesota Mining and Manufacturing Co.
Articles: Photographic grade polyester film
Merchandise: X-ray film, graphic art film and microfilm
Factories: Rochester and Honeyoe, NY
Statement signed: November 2, 1982
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: Los Angeles, January 21, 1983

(Q) Company: Monsanto Company
Articles: Lustran (SAN 31-2060, CN 87, CN 88, ABS 240, ABS 248, ABS 252, ABS 261, ABS 448, CB 600, CB 990, STL 35U)
Merchandise: Styrene monomer and acrylonitrile
Factories: Muscatine, IA; Addyston, OH; Indian Orchid, MA
Statement signed: November 15, 1982
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: Chicago, Houston and New York, February 10, 1983
Revokes: Unpublished authorization letter dated January 18, 1983

(R) Company: Morton Thiokol, Inc.
Articles: Epoxy molding compounds
Merchandise: Epoxy cresol novolac resins
Factory: Ringwood, IL
Statement signed: October 4, 1982
Basic of claim: Used in
Rate forwarded to Regional Commissioner of Customs: New York, February 4, 1983

(S) Company: Morton Thiokol, Inc.
Articles: Color dyes
Merchandise: Dye intermediates
Factory: Paterson, NJ
Statement signed: October 21, 1982
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs in accordance with section 22.4(0)(2): New York, February 9, 1983
Revokes: T.D. 80-280-Q, to cover a change in name from Morton-Norwich Products, Inc.

(T) Company: National Distillers and Chemical Corporation, Emery Industries Division
Articles: Organic intermediate 3-(N-Cyanoethyl-N-Hydroxyethyl) Amino-4-Methoxy Acetanilide (CHAMA)
Merchandise: 3-Amino-4-Methoxy Acetanilide
Factory: Lock Haven, PA
Statement signed: December 16, 1982

Basis of claim: Used in

Rate forwarded to Regional Commissioner of Customs: Chicago, January 6, 1983

(U) Company: National Semiconductor Corp.

Articles: Fully fabricated semiconductor wafers and dice in wafer form

Merchandise: Silicon wafers

Factories: Santa Clara, CA; Danbury, CT; West Jordan, UT

Statement signed: July 7, 1982

Basis of claim: Used in

Rate forwarded to Regional Commissioner of Customs: Los Angeles (San Francisco Liquidation), January 28, 1983

Revokes: T.D. 80-280-S

(V) Company: NF & M International

Articles: Finished titanium bars, billets, and plates

Merchandise: Commercially pure titanium ingots; alloy titanium ingots

Factory: Monaca, PA

Statement signed: December 3, 1982

Basis of claim: Used in, less valuable waste

Rate issued by Regional Commissioner of Customs in accordance with section 22.4(0)(2): New York, February 9, 1983

Revokes: T.D. 82-39-S, to cover a change in name from NF & M Corporation

(W) Company: Pulverizing Services, Inc.

Articles: Botran 75W (2,6-Dichloro-4-Nitroaniline) 75% powder

Merchandise: 2,6-Dichloro-4-nitroaniline (DCNA)

Factory: North Charleston, SC

Statement signed: September 21, 1982

Basis of claim: Appearing in

Rate forwarded to Regional Commissioner of Customs: New York, January 11, 1983

Revokes: T.D. 78-407-S

(X) Company: Republic Steel Corporation

Articles: Steel shapes, such as bars, billets, etc. of various AISI and SAE grades; special bar mill hot-rolled steel sections

Merchandise: High carbon ferrochrome, ferrovanadium; ferrocolumbium; ferromanganese; scrap from any of the foregoing

Factories: Warren, Youngstown, Cleveland, and Canton, OH; Chicago, IL; Buffalo, NY; Gadsden, AL

Statement signed: August 26, 1982

Basis of claim: Appearing in, except for Chromium from Ferrochrome, used in

Rate forwarded to Regional Commissioner of Customs: New York, February 14, 1983

Revokes: T.D. 80-243-T

(Y) Company: Rohm and Haas Texas Inc.
Articles: Surfactants, Tertiary alkyl amines, and octylphenol
Merchandise: Diisobutylene
Factory: Deer Park, TX
Statement signed: February 19, 1982
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: Boston (Baltimore Liquidation), January 21, 1983
Revokes: T.D. 79-213-M

(Z) Company: Ruco Polymer Corporation
Articles: Polyester Resins
Merchandise: Adipic Acid
Factory: Hicksville, NY
Statement signed: November 19, 1982
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: New York, January 3, 1983
Revokes: T.D. 79-213-H (Hooker Chemical & Plastics Corp., Ruco Division)

Approvals under section 22.6, Customs Regulations

(1) Company: Chevron U.S.A. Inc.
Articles: Motor gasoline; aviation gasoline; naphthas; jet fuel; kerosene & range oils; distillate oils; residual oils; lubricating oils; paraffin wax; petroleum coke; asphalt; road oils; still gas; liquified petroleum gas; all other petrochemicals and petroleum products
Merchandise: Crude petroleum, classes I, II, III, and IV; unfinished petroleum products classes II through IV
Factories: Twelve locations
Statement signed: September 17, 1982
Basis of claim: Used in, as provided in the drawback rate contained in section 22.6(g-1) of the Customs Regulations
Rate forwarded to Regional Commissioner of Customs: Los Angeles (San Francisco Liquidation), January 19, 1983
Revokes: T.D. 68-210(1) as amended by T.D. 71-44(1) and T.D. 78-407(1)

(2) Company: Petro-Tex Chemical Corporation
Articles: Butadiene; butene 1 and 2; isobutylene; diisobutylene; triisobutylene; normal butane; isobutane; polymer; pentanes/pentenes; fuel gas; slop oil (heavy ends); MTBE
Merchandise: Crude butadiene; butane butylene; butylene concentrate
Factory: Houston, TX

Statement signed: June 2, 1982

Basis of claim: Used in, as provided in the drawback contract contained in section 22.6(g-1) of the Customs Regulations

Rate forwarded to Regional Commissioner of Customs: Houston, January 18, 1983

Revokes: T.D. 78-293-V

(T.D. 83-260)

Synopses of Drawback Decisions

The following are synopses of drawback rates issued November 3, 1982, to February 2, 1983, inclusive, pursuant to sections 22.1 through 22.5, inclusive, Customs Regulations.

In the synopses below are listed for each drawback rate approved under 19 U.S.C. 1313(a), the name of the company, the specified articles on which drawback is authorized, the merchandise which will be used to manufacture or produce these articles, the factories where the work will be accomplished, the date the statement was signed, the basis for determining payment, the Regional Commissioner who issued the rate, and the date on which it was signed.

(DRA-1-09)

Dated: December 5, 1983.

File: 216413.

EDWARD B. GABLE, Jr.,
Director,
Carriers, Drawback and Bonds Division.

(A) Company: Bambi Watch Band (USA), Inc.

Articles: Dialed movements, finished watches, with or without bands or bracelets

Merchandise: Imported watch heads, watch movements, modules, watch cases, watch dials, bracelets, straps, watch bands

Factory: Ridgefield, NJ

Statement signed: July 16, 1982

Basis of claim: Used in

Rate issued by Regional Commissioner of Customs: New York, December 3, 1982

(B) Company: Bayliner Marine Corporation

Articles: Pleasure boats

Merchandise: Imported Volvo engines, stern drives and transom shield kits

Factories: Arlington and Spokane, WA; Valdosta, GA; New Bern, NC; Pipestone, MN

Statement signed: July 21, 1982

Basis of claim: Appearing in

Rate issued by Regional Commissioner of Customs: Los Angeles (San Francisco Liquidation), December 15, 1982
Revokes: T.D. 73-323-B

(C) Company: The B. F. Goodrich Company
Articles: Kuralon (PVA) tire cord fabric
Merchandise: Imported Kuralon yarn (polyvinyl alcohol yarn)
Factory: Thomaston, GA
Statement signed: January 3, 1983
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: Miami, January 21, 1983

(D) Company: Ciba-Geigy Corporation
Articles: Tinopal PT liquid—fluorescent brighteners
Merchandise: Imported sulfanilic acid
Factory: McIntosh, AL
Statement signed: July 30, 1982
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: New York, November 29, 1982

(E) Company: Ciba-Geigy Corporation
Articles: AAtrex 41-Herbicide
Merchandise: Imported Rhodopol L-23
Factory: St. Gabriel, LA
Statement signed: September 29, 1982
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: New York, December 16, 1982

(F) Company: Diazit Company, Inc.
Articles: Diazo copying machines
Merchandise: Imported glass cylinders
Factory: Youngsville, NC
Statement signed: October 22, 1982
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: Miami, November 12, 1982

(G) Company: Ellicott Machine Corporation
Articles: Dredges and dredging machinery
Merchandise: Imported hydraulic motors, pumps, winches, profile computer, steel pipe and tubing
Factory: Baltimore, MD
Statement signed: January 5, 1983
Basic of claim: Appearing in
Rate issued by Regional Commissioner of Customs: Boston (Baltimore Liquidation), January 21, 1983

Revokes: T.D. 82-202-F

(H) Company: Hexcel Corporation
Articles: Tetrahydrofurfurylamine
Merchandise: Imported furfurylamine
Factory: Zeeland, MI
Statement signed: October 22, 1982
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: New York, January 27, 1983

(I) Company: Hood River Distillers, Inc.
Articles: Distilled spirits reduced in proof
Merchandise: Imported distilled spirits
Factory: Hood River, OR
Statement signed: October 18, 1982
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: Los Angeles (San Francisco Liquidation), December 13, 1982

(J) Company: Houdaille Industies, Penberthy Division
Articles: Flat glass liquid level gauges and gauge illuminators
Merchandise: Imported reflex and transparent aluminosilicate flat gauge glass and gauge illuminator rings
Factory: Prophetstown, IL
Statement signed: October 21, 1982
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: Chicago, November 3, 1982

(K) Company: Intervale Steel Corporation
Articles: Hot rolled sheets, strips, and blanks cut to size
Merchandise: Imported hot rolled steel sheet
Factory: Detroit, MI
Statement signed: November 3, 1982
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: New York, December 21, 1982

(L) Company: Lear Siegler, Inc., Data Products Division
Articles: CRI computer display terminals
Merchandise: Imported computer terminal parts
Factory: Anaheim, CA
Statement signed: November 29, 1982
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: Los Angeles, December 16, 1982

(M) Company: MacAndrews & Forbes Co.

Articles: Powdered oriental licorice extract (P.O.L.E.)
Mechandise: Imported spray-dried licorice extract
Factory: Camden, NJ
Statement signed: December 14, 1982
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: Boston (Baltimore Liquidation), January 11, 1983

(N) Company: Paterson Bleachery and Chemicals, Inc.
Articles: Bleached cashmere or camel hair in stock form
Merchandise: Imported cashmere or camel hair in stock form
Factory: Paterson, NJ
Statement signed: October 8, 1982
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: New York, December 2, 1982

(O) Company: Powers Chemco, Inc., Chemco Photoproducts Co., Div.
Articles: Sheets and finished rolls of graphic arts film
Merchandise: Imported bulk rolls of graphic arts film base
Factory: Glen Cove, NY
Statement signed: September 14, 1982
Basis of claim: Used in
Rate issued by Regional Commissioner of Cutoms: New York, Janury 18, 1983

(P) Company: Pyrotek, Inc.
Articles: Cut and machined boards, gaskets, insulators, and glass rolls
Merchandise: Imported tombo lumiboard, monalite boards and non-asbestos millboard
Factories: Trenton, TN; Carlisle, PA
Statement signed: April 30, 1982
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: Boston (Baltimore Liquidation), November 22, 1982

(Q) Company: Ricoh Electronics, Inc., Toner Manufacturing Div.
Articles: Dry toner for photocopiers
Merchandise: Imported styrene resin and mono azo dye
Factory: Santa Ana, CA
Statement signed: January 7, 1983
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: Los Angeles, February 2, 1983

(R) Company: Salzgitter Machinery, Inc.
Articles: Oil pumps and various sub-assemblies

Merchandise: Various imported parts and components for the construction of pumping units
Factory: Louviers, CO
Statement signed: August 16, 1982
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: New York, December 16, 1982
Revokes: T.D. 82-205-A, to cover change in name of company from American SMACO, Inc.

(S) Company: Sandoz, Inc.
Articles: Sansert tablets
Merchandise: Imported methysergide maleate
Factory: East Hanover, NJ
Statement signed: November 28, 1982
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: New York, January 20, 1983

(T) Company: Simco Leather Corporation
Articles: Pigment colored and surface textured leather
Merchandise: Imported leather hides
Factory: Johnstown, NY
Statement signed: November 16, 1982
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: New York, January 27, 1983

(U) Company: Somitex Prints of California, Inc.
Articles: Printed fabric
Merchandise: Imported white fabric
Factory: City of Industry, CA
Statement signed: December 10, 1982
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: Los Angeles, December 30, 1982

(V) Company: Supertex, Inc.
Articles: Finished semiconductors (integrated circuits)
Merchandise: Imported unfinished semiconductor microdevices
Factory: Sunnyvale, CA
Statement signed: December 1, 1982
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: Los Angeles (San Francisco Liquidation), February 2, 1983

(W) Company: Textron, Inc., E-Z-Go Division
Articles: Gasoline-powered golf cars and light turf equipment
Merchandise: Imported two-cycle engine with standard accessories

Factory: Augusta, GA
Statement signed: November 29, 1982
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: Miami, December 23, 1982

(X) Company: Union Corrugating Co., Inc.
Articles: Corrugated sheets or panels; crimp sheets or panels; "Dura-Rib" sheets or panels
Merchandise: Imported galvanized steel coils
Factories: Fayetteville and Spencer, NC; Orange, VA; Tifton, GA; Anderson, SC
Statement signed: August 26, 1982
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: Miami, December 1, 1982

(Y) Company: Yates Bleachery Co., Inc.
Articles: Bleached or dyed piece goods
Merchandise: Imported piece goods
Factory: Flintstone, GA
Statement signed: December 6, 1982
Basis of claim: Used in, less valuable waste
Rate issued by Regional Commissioner of Customs: New York, January 20, 1983

(Z) Company: Zanon U.S.A., Inc.
Articles: Dialed movements, finished watches, with or without bands or bracelets
Merchandise: Imported watch heads, watch movements, modules, watch cases, watch dials, bracelets, straps, watchbands
Factory: Monsey, NY
Statement signed: August 2, 1982
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: New York, November 29, 1982

(T.D. 83-261)

Synopses of Drawback Decisions

The following are synopses of drawback rates issued May 2, 1983, to September 29, 1983, inclusive, pursuant to sections 22.1 through 22.5, inclusive, Customs Regulations.

In the synopses below are listed for each drawback rate approved under 19 U.S.C. 1313(a), the name of the company, the specified articles on which drawback is authorized, the merchandise which will be used to manufacture or produce these articles, the factories where the work will be accomplished, the date the statement was signed, the basis for determining payment, the Regional Commissioner who issued the rate, and the date on which it was signed.

(DRA-1-09)

File: 216416.

Dated: December 5, 1983.

EDWARD B. GABLE, Jr.,
Director,
Carriers, Drawback and Bonds Division.

(A) Company: Colt Industries Operating Corp., Trent Tube Div.
Articles: Stainless steel (nickel alloy) tubes
Merchandise: Imported stainless steel (nickel alloy) strip
Factory: East Troy, WI
Statement signed: June 9, 1983
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: New York, July 20, 1983

(B) Company: Dumont Instrumentation, Inc.
Articles: Super 8mm projectors, rear screen and front screen projection; synchromatic 110 sound and film strip projectors; 35mm sound/slide projector
Merchandise: Imported 10mm Fl.1 projection lens; 35mm F2.8 view lens; 11.7mm Fl.4 projection lens; 2½" FL F 3.5 projection lens; condensing biconvex lens; tape players
Factory: Commack, NY
Statement signed: March 10, 1983
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: New York, June 27, 1983

(C) Company: E. R. Wagner Manufacturing Company
Articles: Electric heater units for use in air conditioners
Merchandise: Imported nickel-chrome resistance wire
Factories: Winneconne, WI; Denton, TX
Statement signed: June 3, 1983
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: Chicago, June 20, 1983

(D) Company: Finnigan Corporation
Articles: Gas chromatograph mass spectrometer systems
Merchandise: Imported turbo molecular pumps; mechanical pumps; electronic power controllers for pumps
Factory: San Jose, CA
Statement signed: May 12, 1983
Basis of claim: Appearing in

Rate issued by Regional Commissioner of Customs: Los Angeles (San Francisco Liquidation), June 8, 1983

(E) Company: Garrett Corporation (AiResearch Manufacturing Company Division)
Articles: Heavy duty gas turbine regenerators
Merchandise: Imported stainless steel alloy
Factory: Torrance, CA
Statement signed: May 12, 1983
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: Los Angeles, August 4, 1983

(F) Company: GATX Company, Pollock Division
Articles: Further processed titanium and titanium alloy mill products
Merchandise: Imported titanium and titanium alloy mill products of various compositions and dimensions
Factory: Youngstown, OH
Statement signed: June 7, 1983
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: New York, July 20, 1983

(G) Company: Industrial Electronic Engineers, Inc., Industrial Products Div.
Articles: Display sub-systems
Merchandise: Imported display elements
Factory: Van Nuys, CA
Statement signed: June 16, 1983
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: Los Angeles, July 18, 1983

(H) Company: Interscience Systems, Inc.
Articles: Slot machines
Merchandise: Imported slot machine parts
Factory: Canoga Park, CA
Statement signed: August 12, 1983
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: Los Angeles, August 15, 1983

(I) Company: Jessop Steel Company
Articles: Semi-finished titanium and titanium alloy slabs and sheets
Merchandise: Imported titanium and titanium alloy slabs of various compositions and dimensions
Factories: Washington and Frazier, PA; Santa Fe Springs, CA

Statement signed: May 23, 1983
Basis of claim: Used in, less valuable waste; appearing in
Rate issued by Regional Commissioner of Customs: New York, June 30, 1983
Revokes: T.D. 81-273-L

(J) Company: Maro Leather Company
Articles: Pigment colored and surface textured leather
Merchandise: Imported leather hides
Factory: Newark, NJ
Statement signed: June 13, 1983
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: New York, July 13, 1983

(K) Company: Pittsburgh Commercial Heat Treating Co.
Articles: Further processed titanium and titanium alloy mill products
Merchandise: Imported and/or drawback titanium and titanium alloy mill products of various compositions and dimensions
Factory: Pittsburgh, PA
Statement signed: June 7, 1983
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: New York, July 21, 1983

(L) Company: Power Climber, Inc.
Articles: Electrical hoists and air hoists
Merchandise: Imported hoist components
Factory: Los Angeles, CA
Statement signed: March 18, 1983
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: Los Angeles, July 12, 1983

(M) Company: Rainbow Irrigation Company
Articles: Generator units
Merchandise: Imported MWM Murphy diesel engines
Factory: Fitzgerald, GA
Statement signed: April 18, 1983
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: Miami, July 1, 1983

(N) Company: Rhone-Poulenc, Inc.
Articles: Rate earth compounds
Merchandise: Imported rare earth nitrate
Factory: Freeport, TX
Statement signed: March 23, 1983

Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: New York, May 26, 1983

(O) Company: Robert Bosch Power Tool Corp.
Articles: Electric rotary and breaker hammers
Merchandise: Imported components of electric rotary and breaker hammers
Factory: New Bern, NC
Statement signed: April 14, 1983
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: New York, June 16, 1983

(P) Company: Rome Metal Blasting, Inc.
Articles: Further processed titanium and titanium alloy mill products
Merchandise: Imported titanium and titanium alloy mill products of various compositions and dimensions
Factory: Rochester, PA
Statement signed: May 11, 1983
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: New York, August 3, 1983

(Q) Company: Slalom Skiwear, Inc.
Articles: Ski parkas and ski pants
Merchandise: Imported nylon fabric, thread and zippers
Factory: Newport, VT
Statement signed: April 27, 1982
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: Boston, May 2, 1983

(R) Company: Solar Compounds Corporation
Articles: Fuel oil additives
Merchandise: Imported H.A.D. oil; magnesium sulfonate; Surpass 550
Factory: Linden, NJ
Statement signed: June 14, 1983
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: New York, July 20, 1983

(S) Company: Stendig, Inc.
Articles: Furniture
Merchandise: Imported upholstery fabric
Factory: Edison, NJ
Statement signed: January 18, 1983

Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: New York, August 3, 1983

(T) Company: Syms, Inc., A. Sulka and Company Division
Articles: Men's shirtings—dress, formal and sports
Merchandise: Imported 100% pure cotton material
Factory: Portchester, NY
Statement signed: March 29, 1983
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: New York, July 21, 1983

(U) Company: Trilectron Industries, Inc.
Articles: Aircraft ground power units
Merchandise: Imported diesel engines
Factory: Hawthorne, NJ
Statement signed: May 13, 1983
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: New York, June 16, 1983

(V) Company: United States Steel Corporation
Articles: Further processed titanium and titanium alloy mill products
Merchandise: Imported titanium and titanium alloy mill products of various compositions and dimensions
Factories: Homestead and Vandergrift, PA
Statement signed: June 16, 1983
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: New York, August 3, 1983

(W) Company: Washington Steel Corporation
Articles: Further processed titanium and titanium alloy mill products
Merchandise: Imported titanium and titanium alloy mill products of various compositions and dimensions
Factories: Houston and Washington, PA
Statement signed: April 27, 1983
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: New York, August 3, 1983

(X) Company: Wayne Engineering Corporation
Articles: Refuse compactors
Merchandise: Imported Mercedes Benz engines and chassis
Factory: Cedar Falls, IA
Statement signed: June 9, 1983

Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: Los Angeles (San Francisco Liquidation), June 27, 1983

(Y) Company: WSL Telecontrol Corporation
Articles: Supervisory control and data acquisition systems
Merchandise: Imported electronic assemblies, fabricated metal parts, and electronic components
Factory: Costa Mesa, CA
Statement signed: March 1, 1983
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: Los Angeles, June 29, 1983

(Z) Company: Yamaha International Corporation
Articles: Yamaha electronic organs, speakers, pianos, and guitar amplifiers
Merchandise: Imported components for electronic organs, pianos, speakers, and guitar amplifiers
Factory: Thomaston, GA
Statement signed: September 22, 1983
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: Los Angleles, September 29, 1983

Moulinex Manufacturing, Inc., operating under T.D. 81-200-Q, has changed its name to Moulinex Regal, Inc.

(T.D. 83-262)

Bonds

Approval and discontinuance of Carrier's Bonds, Customs Form 3587

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: December 2, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Arnoff Moving and Storage Inc. (A CT Corp.), Millerton Rd., Lakeville, CT; motor carrier; American Motorists Ins. Co.	June 23, 1983	Nov. 15, 1983	New York Seaport $100,000
Big State Freight Lines, 5656 Kelly, Houston, TX; motor carrier; United States Fidelity & Guaranty Co.	Nov. 18 1983	Nov. 18, 1983	Houston, TX $50,000
Blue Arrow, Inc., 525 Burton S.W., Grand Rapids, MI; motor carrier; The American Ins. Co. D 11/27/83	Aug. 2, 1982	Aug. 25, 1982	Detroit, MI $50,000
CF Air Freight, Inc.—see Consolidated Freightways, Inc.			
CF Arrowhead Services and CF Arrowhead Services, Inc.—see Consolidated Freightways, Inc.			
CF Forwarding, Inc.—see Consolidated Freightways, Inc.			
C.P. Transporters, Inc., Pier A. Berth 4, P.O. Box 20032, Long Beach, CA; motor carrier; Fidelity and Deposit Co. of MD	Oct. 27, 1983	Nov. 16, 1893	Los Angeles, CA $50,000
Canadian Freightways Eastern Limited—see Consolidated Freightways, Inc.			
Canadian Freightways Limited—see Consolidated Freightways, Inc.			
Chamy Transport Ltd., 3080 Bernard Pilon St., St. Mathieu de Boloeil, Quebec, Canada; motor carrier; Reliance Ins. Co. D 11/15/83	Oct. 1, 1979	Oct. 8, 1980	Ogdensburg, NY $50,000
L.A. Chitwood, Jr., Stark Industrial Park, Charleston Heights, SC; motor carrier; United States Fidelity and Guaranty Co. (PB 11/13/81) D 11/13/81 [1]	Nov. 13, 1983	Nov. 21, 1983	Charleston, SC $25,000
Con-Way Central Express, Inc.—see Consolidated Freightways, Inc.			
Con-Way Eastern Express, Inc.—see Consolidated Freightways, Inc.			

See footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Con-Way Western Express, Inc.—see Consolidated Freightways, Inc.			
Consolidated Freightways Corporation of Delaware—see Consolidated Freightways, Inc.			
Consolidated Freightways, Inc., as sole direct or indirect owner as principal for the following corporations and divisions: Consolidated Freightways Corporation of Delaware and CF Air Freight Inc., and CF Arrowhead Services, CF Arrowhead Services, Inc., Con-Way Eastern Express, Inc., Con-Way Western Express, Inc., Con-Way Central Express, Inc., CF Forwarding, Inc., Consolidated Freightways Inc., Export-Import Services, Inc., Canadian Freightways Limited, Canadian Freightways Eastern Limited, United Terminals Ltd., (All U.S. entities are DE Corps.) 3240 Hillview Ave., Palo Alto, CA; motor carrier; Safeco Ins. Co. of America (PB 3/21/83) D 9/26/83 [2]	Sept. 26, 1983	Oct. 26, 1983	Portland, OR $50,000
Conalco Contract Carrier, Inc., P.O. Box 968, Jackson, TN; contract carrier; Firemans Fund Ins. Co.	May 10, 1983	Nov. 10, 1983	St. Louis, MO $50,000
Consolidated Freightways Export-Import Services, Inc.—see Consolidated Freightways, Inc.			
Crown Motor Lines, Inc., 2225 Broadway Ave., Jacksonville, FL; motor carrier; The Aetna Casualty & Surety Co. D 11/15/83	Oct. 20, 1980	Jan. 20, 1981	Tampa, FL $25,000
Contract Transport, Inc., 1750 Old Springhouse Lane, Atlanta, GA; motor carrier; Western Surety Co. D 12/8/83	Oct. 5, 1982	Nov. 8, 1982	Savannah, GA $25,000
Delcher Forwarding Services, Inc., 4219 Central Ave., St. Petersburg, FL; motor carrier; Hartford Accident & Indemnity Co.	Nov. 4, 1983	Nov. 10, 1983	Tampa, FL $50,000
Express Intermodal Transport, Inc., 1531 Blinn Ave., Wilmington, CA; motor carrier; Fidelity & Deposit Co.	Nov. 8, 1983	Nov. 18, 1983	San Franciso, CA $25,000
ive Star Transportation, Inc., P.O. Box 9670, Houston, TX; motor carrier; Insurance Co. of North America	Sept. 28, 1983	Nov. 18, 1983	Houston, TX $100,000
G. Frazier & Son, Inc., 1500 S. Zarzamora, Rm 110, San Antonio, TX; motor carrier; Western Surety Co. (PB 10/26/82) D 11/17/83 [3]	Oct. 26, 1983	Nov. 17, 1983	Laredo, TX $25,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Helms/Byrns Express—see Ryder/P-I-E Nationwide, Inc.			
J. R. Transportation Services, Inc., RD #6, Box 385, Hammonton, NJ; motor carrier; State Farm Fire & Casualty Co. D 11/28/83	Jan. 18, 1983	Feb. 16, 1983	Philadelphia, PA $25,000
Lavery Transportation, Inc., 4211 Shirley Lane, Alsip, IL; motor carrier; Hartford Accident and Indemnity Co. D 11/7/83	June 2, 1977	July 27, 1977	Chicago, IL $30,000
Memphis Leasing-Duvall Transfer Co., Inc., P.O. Box 18180, Memphis, TN; motor carrier, St. Paul Fire & Marine Ins. Co. (PB 6/24/83) D 11/14/83 [4]	Oct. 17, 1983	Nov. 14, 1983	New Orleans, LA $50,000
Missouri-Nebraska Express, Inc., P.O. Box 939, St. Joseph, MO; motor carrier; U.S. Fidelity & Guaranty Co.	Oct. 28, 1983	Nov. 15, 1983	St. Louis, MO $50,000
Orion Trucking Inc., 377 Oyster Point Blvd. #18, South San Francisco, CA; motor carrier; Washington International Ins. Co.	Oct. 25, 1983	Nov. 10, 1983	San Francisco, CA $25,000
Ranger Div.—see Ryder/P-I-E Nationwide, Inc.			
T. S. Ragsdale Co., Inc., P.O. Box 937, Lake City, SC; motor carrier; The Aetna Casualty and Surety Co.	Nov. 10, 1983	Nov. 18, 1983	Charleston, SC $50,000
Ryder/P-I-E Nationwide, Inc., Helms/Byrns Express Div., and Ranger Div., P.O. Box 2408, Jacksonville, FL; motor carrier; American Casualty Co. of Reading, PA (PB 9/9/80) D 11/1/83 [5]	July 5, 1983	Nov. 1, 1983	Tampa, FL $25,000
Team Air Freight, Inc., 8920 Royal Lane North, Irving, TX; motor carrier; St. Paul Fire & Marine Ins. Co. D 11/15/83	Sept. 14, 1981	Sept. 18, 1981	Dallas/Fort Worth, TX $25,000
Trans-United, Inc., 202 E. 112th St., Hammond, IN; motor carrier; Fidelity & Deposit Co. of MD D 11/16/83	Nov. 4, 1982	Dec. 14, 1982	Chicago, IL $25,000
Transportes Mercader, Inc., P.O. Box 55, Catano, PR; motor carrier; Puerto Rican-American Ins. Co. (PB 12/16/81) D 11/16/83	Nov. 7, 1983	Nov. 16, 1983	San Juan, PR $25,000
Trojan Transport, 3380 N.W. 114th St., Miami, FL; motor carrier; Fidelity and Deposit Co. of MD	Sept. 20, 1983	Nov. 8, 1983	Miami, FL $50,000

Footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
ed Terminals Ltd.—See Consoli- ted Freightways, Inc.			
e Tiger Transportation Co., Inc., Hackensack Ave.; P.O. Box 449 arny, NJ; motor carrier; Peerless s. Co.	July 20, 1983	Nov. 10, 1983	Newark, NJ $50,000

urety is United States Fire Ins. Co.
rincipal is Consolidated Freightways Corporation of Delaware and its divisions, and CF Air
ght, Inc. and CF Arrowhead Services, CF Arrowhead Services, Inc., Con-Way Eastern
ress, Inc., Con-Way Western Express, Inc., Con-Way Central Express, Inc., CF Forwarding,
Consolidated Freightways Export-Import Services, Inc.
Principal is Wilbur S. Frazier, Sr., and Wilbur G. Frazier, Jr. Surety is National Surety
Principal is Memphis Leasing-Duvall Transfer Co. Surety is Lawyers Surety Corp.
Principal is Ryder Truck Lines, Inc., Ranger Division of Ryder Truck Lines, Inc., Helms
ress Div. of Ryder Truck Lines, Inc., Byrns Motor Express Div. of Ryder Truck Lines, Inc.,
States Trucking Div. of Ryder Truck Lines, Inc.

BON-3-03

EDWARD B. GABLE, Jr.,
Director,
Carriers, Drawback and Bonds Division.

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19 CFR Part 177

(T.D. 83-263)

Change of Practice Relating to the Tariff Classification of Garments With Simulated Features

GENCY: U.S. Customs Service, Department of the Treasury.

CTION: Change of practice.

UMMARY: This document changes the current established and
iform practice of classifying certain garments with simulated
atures as *not ornamented* wearing apparel. After consideration of
mments received in response to the notice proposing this change
d review of judicial precedents. Customs will now treat these
rments for tariff purposes as being *ornamented* if the simulated
atures are determined to be primarily decorative in nature.

FFECTIVE DATE: This change of practice will be effective as to
erchandise entered for consumption, or withdrawn from warehouse for consumption, on or after April 10, 1984.

OR FURTHER INFORMATION CONTACT: Philip Robins, Classi-
cation and Value Division, U.S. Customs Service, 1301 Constitu-
on Avenue, NW., Washington, D.C. 20229 (202-566-8181).

UPPLEMENTARY INFORMATION

BACKGROUND

By notice published in the Federal Register on January 14, 19
(47 FR 2126), Customs solicited public comments on whether
change its practice of classifying certain garments with simulat
features as not ornamented wearing apparel, based on the decisi
of the U.S. Court of Customs and Patent Appeals in *The Ferr
wheel* v. *The United States*, C.A.D. 1260 (1981), and other judic
precedents. In response to several requests to extend the period
time for submission of comments, Customs published a notice
the Federal Register on March 9, 1982 (47 FR 10058), extending t
comment period until April 14, 1982.

DISCUSSION OF COMMENTS

Thirty-seven comments were received in response to the notice
the proposed change of practice. All but one were opposed to t
proposal. A number of legal arguments were presented why t
present Customs practice of considering simulated features on ga
ments as not constituting ornamentation should not be change
The primary reasons given were (1) accepted trade usage and pra
tice, (2) a feature which simulates a functional feature is not orn
mental or decorative, (3) the current practice is not *clearly* wron
and (4) judicial decisions do not require the change of practice a
do tend to support the current practice.

In *The United States* v. *Endicott Johnson Corporation*, C.A.
1242 (1980), the U.S. Court of Customs and Patent Appeals state
in essence, that a feature that is only incidentally decorative do
not constitute ornamentation, whether or not that feature has a
functionality.

On December 22, 1982, after receipt of all the comments on t
proposed change of practice, the U.S. Court of International Tra
decided the case of *Sportswear International Ltd.* v. *United Stat*
Slip Op. 82-118. That case involved the tariff classification
women's denim slacks, each of which had two belt loops on t
front waistband and an elasticized rear waistband. In upholdi
Customs classification of the merchandise under an ornament
wearing apparel tariff provision, the Court stated:

> In the instant action the two belt loops on the subject me
> chandise have not been shown "capable" of holding a belt
> place either for the purpose of holding up the garment or f
> the purpose of holding it (the belt) in place when worn as
> ornament. On the contrary, the evidence supports the findi
> that the purpose of the two belt loops is to simulate the a
> pearance of jeans on which a belt is required or may be wor

Customs believes that the current practice concerning simulat
features will not be upheld in view of these decisions, and that th
require garments with decorative simulated features that are mo
than incidentally decorative to be classified under the ornament

wearing apparel provisions in the Tariff Schedules of the United States (19 U.S.C. 1202). It is Customs belief that such features are added to garments to enhance their appearance or eye appeal and therefore serve primarily to decorate the garment. This is, in fact, supported by some of the comments received.

It is Customs position that if a simulated feature is determined by Customs to be more than incidentally decorative in nature, then the garment would be declared to be ornamented and the question of its functionality would ordinarily not be raised, because by definition a "simulated" feature is one which is "mock," "false" or "imitative of the genuine feature," *i.e.*, nonfunctional.

CHANGE OF PRACTICE

After careful analysis of the comments and further review of the matter in light of the judicial precedents discussed above, Customs has determined to change its classification practice as proposed. Customs now believes that simulations on wearing apparel such as false pocket flaps, false belts or belt segments, false pocket openings, false garment openings, and false adjustment straps or tabs, among other simulations, may constitute ornamentation for tariff classification purposes.

This change of practice revokes any existing Treasury or Customs Decisions, or other administrative rulings, to the extent that they are inconsistent with the new practice.

DRAFTING INFORMATION

The principal author of the document was Todd J. Schneider, Regulations Control Branch, Office of Regulations and Rulings U.S. Customs Service. However, personnel from other Customs offices participated in its development.

ALFRED R. DE ANGELUS,
Acting Commissioner of Customs.

Approved: November 9, 1983.
JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, December 12, 1983 (48 FR 55281)]

U.S. Customs Service

Customs Service Decisions

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U.S. Customs Service

Customs Service Decisions

Department of The Treasury,
Office of The Commissioner of Customs,
Washington, D.C.

The following are decisions made by the United States Customs Service where the issues involved are of sufficient interest or importance to warrant publication in the Customs Bulletin.

John P. Simpson,
Director,
Office of Regulations and Rulings.

(C.S.D. 83-1)

This Ruling Holds That Customs Headquarters Will Not Substitute Its Judgment for the Fields Refusal To Grant Same Condition Drawback To Merchandise Exported Without Examination Unless It Can Be Shown That a Customs Officer Acted Arbitrarily.

Date: February 3, 1982
File: DRA-1-09-CO:R:CD:D
213801 B

District Director of Customs,
San Juan, Puerto, Rico,
Attention: Director, Classification and Value Division

Dear Sir: Your report of November 24, 1981, (DRA-7-DD:C:IA CT-1) forwarded a copy of a letter of August 25, 1981, from a customhouse broker requesting internal advice on the applicability of same condition drawback on medicinals sent in error to consignees at your port.

The medicinals were erroneously shipped from the United Kingdom to the consignees and were imported in January, 1980 and placed in general order warehouse. The medicinals remained unclaimed in excess of the one year period prescribed in 19 U.S.C. 1491, and were therefore considered abandoned. When the consignees discovered the merchandise was to be offered for sale, they decided to export it. Their broker consulted your office and was informed that once the medicinals became subject to sale, they could not be removed from general order for consumption or exportation without payment of all duties and applicable charges, as provided in the noted statute. As a result of this consultation, the broker filed a consumption entry dated March 31, 1981, and subsequently a transportation and exportation entry dated April 2, 1981, and the merchandise was exported, apparently on April 7, 1981.

With his letter of August 25, 1981, the broker filed a same condition drawback entry.

The fact that the medicinals were entered for consumption in order to pay duties prior to exportation does not negate the provisions of 19 U.S.C. 1313(j), which applies to all merchandise entered or withdrawn from warehouse for consumption on and after December 28, 1980. The statue does not limit "withdrawn from warehouse for consumption" by language limiting the law to merchandise withdrawn for consumption for particular reasons.

In the case you cite as controlling should 19 U.S.C. 1313(j) be applicable, *Swan Tricot Mills Corporation* v. *United States*, 63 Cust. Ct. 530, C.D. 3948 (1969), the court held that adherence to the requirements of the law and regulations was a prerequisite to obtaining the benefits of 19 U.S.C. 1313(c). This case and similar cases are limited to the statute. The only requirements applicable to 1313(j), in addition to the provisions of that law, are interim operating instruments for Customs and claimants. One requirement under these instructions is that the prospective claimant notify Customs prior to exportation so that Customs may examine the merchandise if it is felt the step is necessary. If the goods are not examined, the District Director may at his discretion allow the claim if he is satisfied the conditions of the law have been met.

It is clear from your report that you believe examination was required in this case and have therefore disallowed the claim.

Unless it is evident a Customs officer has acted in an arbitrary or capricious manner we will not substitute our judgment for his. We will not do so here. The very nature of the merchandise involved, medicinals, would indicate an examination was in order if only to determine if they had deteriorated.

As you point out, Customs is not required to volunteer to an importer/exporter that a particular statute or regulation is available for use, especially if the Customs officer believes the provision does not apply. Your office published an advisory notice to importers, prior to exportation in this case, instructing them of the steps to be taken to obtain same condition drawback. The fact that the broker was not aware of them, and chose to ignore two statutes of which he should have been aware, 19 U.S.C. 1313(c) and 1313(j), does not amount to a clerical error or mistake of fact under 19 U.S.C. 1520(c)(1).

We agree with your conclusion that the claim should be disallowed. However, has the broker made a proper claim for same condition drawback the law would have applied.

(C.S.D. 83-2)

This Decision Holds That Repacking or Repackaging for Retail Sale is Permissible Under the Same Condition Drawback Law, 19 U.S.C. 1313(j)

Date: April 5, 1982
File: DRA-1-09-CO:R:CD:D
214185 B

Re: Your Request for Internal Advice of February 16, 1982—Repackaging of Candy—Same Condition Drawback

Dear Sir: This is in reply to the referenced matters.

Already formed to size and shape, candy is imported from Italy in 220 pound containers. Prior to exportation, the candy is repackaged in 14 and 16 gram containers for retail sale. The broker for the repackager requested that same condition drawback be allowed on the candy.

The same condition drawback law, 19 U.S.C. 1313(j), does not require that imported merchandise be exported in every case in absolutely the same condition as imported. The imported merchandise may undergo certain incidental operations specifically allowed by that law which do change the condition of the merchandise. One of the incidental specifically allowed operations is repackaging.

The legislative history for same condition drawback is silent as to what the Congress meant by "repackaging." However, statutory language is presumed to be used in its normal sense. *United States* v. *Esso Standard Oil Co.*, 42 CCPA 144, at 151, C.A.D. 587 (1955), *United States* v. *British Cars and Parts, Inc.*, 47 CCPA 114, C.A.D. 741 (1960). If the language is clear and unambiguous, there is no reason to reject its meaning and search for some other signification. *Akawo, Morimura and Co.* v. *United States*, 6 Cust. Appls. 379, at 381, T.D. 35921 (1915).

There is no apparent limitation of the word "repackaging," that is, the operation is not limited to wholesale or bulk repackaging. The repackaging in this case does not amount to a manufacture under the drawback law and is therefore allowable under same condition drawback. Accord, T.D. 78-77.

Many samples of packaged candy are submitted, however, since the only question raised by the broker refers to the small peppermint and flavored drops, this advice is limited to them.

(C.S.D. 83-3)

This Ruling Holds That Tooling Is Not an Assist Where Tools Paid for by the Buyer Are Constructed by the Manufacturer for Use in Producing Merchandise for the Buyer. The Payment for the Tools Constitutes Part of the Price Paid or Payable for the Merchandise. (Section 402(h)(1)(A), Tariff Act of 1930)

Date: July 19, 1982
File: CLA-2 CO:R:CV:V
542812 LPD

This is in regard to your letter of April 28, 1982, and your subsequent telephone conversation with Mr. Dunham of my staff, concerning the application of section 402(h)(1)(A), Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (TAA), to the importation of valves which you contemplate having manufactured in Great Britain. The valves would be manufactured to your specifications using tools which the manufacturer would build specially for this purpose. You would reimburse the manufacturer for the cost of producing these tools. You inquire whether, under these circumstances, the cost of the tools would be includable as an assist in the dutiable value of the merchandise.

Section 402(h)(1)(A) states:

> (h) DEFINITIONS.—As used in this section—
>
> (1)(A) The term 'assist' means any of the following if supplied directly or indirectly, and free of charge or at reduced cost, by the buyer of imported merchandise for use in connection with the production or the sale for export to the United States of the merchandise:
>
> * * * * * * *
>
> (ii) Tools, dies, molds, and similar items used in the production of the imported merchandise.
>
> * * * * * * *

On the basis of the information which you have submitted, it appears that your arrangement with the manufacturer does not fall within the above definition and cannot be considered as assist because you have not supplied the seller with tooling. Rather, the additional amount which you would pay to the manufacturer for producing the tools would be dutiable because it constitutes part of the price actually paid or payable for the merchandise, *i.e.*, part of the total payment made by the buyer to, or for the benefit of, the seller and would be included in the transaction value of the merchandise to be imported.

(C.S.D. 83-4)

This Ruling Holds That Loan Interest Expense Incurred by a Foreign Assembler During Start-Up Phase Is Included in the Amount for Profit and General Expenses Under Computed Value

Date: August 6, 1982
File: CLA-2 COR:R:CV:V
542848 CW

To: District Director of Customs, El Paso, Tex.
From: Director, Classification and Value Division
Subject: Dutiability of Interest Expense Incurred by a Foreign Assembler During Start-Up Phase

This is in response to your memorandum of June 16, 1982, in which you request a ruling on the issue of whether loan interest expense incurred by an assembler in Mexico prior to the commencement of production and assembly operations should be included in computed value under section 402(e) of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (TAA). You state that the loan in this case is obtained by the importer and is used to outfit and establish the foreign assembler. Specifically, the assembler's land, building, machinery, equipment, furniture, fixtures and other similar items are procured by means of the loan.

In your opinion, this expense is dutiable as part of the "amount for profit and general expenses" under computed value.

Section 402(e)(B) provides that computed value includes:

> "* * * an amount for profit and general expenses equal to that usually reflected in sales of merchandise, of the same class or kind as the imported mechandise, that are made by the producers in the country of exportation for export to the United States * * *"

You state that you are unaware of any other assemblers in Mexico which produce merchandise of the same class or kind as the instant merchandise for export to the United States. Under these circumstances, the Mexican assembler's actual figures represent the "usual" profit and general expenses.

The Statement of Administrative Action relating to the TAA provides that the "amount for profit and general expenses" under computed value:

> "* * * will be determined on the basis of information supplied by, or on behalf of, the producer and will be based upon the commercial accounts of the producer, provided that such accounts are consistent with the generally accepted accounting principles applied in the country where the goods are produced * * *"

The amount of the interest expense incurred by the assembler prior to the initiation of its production operations appears on the assembler's books of account. It appears from your memorandum, and for purposes of this ruling we are assuming, that the inclusion of the interest expense item in the books, of account is consistent with generally accepted accounting principles in Mexico. Moreover, as the interest expense constitutes part of the assembler's start-up costs, it clearly qualifies as a general expense which is related to the assembly of the merchandise in question.

For the foregoing reasons, we concur in your opinion that where the loan interest expense incurred by the assembler prior to the commencement of assembly operations appears on the assembler's books of account, that expense is properly included in the amount for profit and general expenses" under computed value.

We note that there is no indication in your memorandum of the reason for rejecting transaction value as a basis of appraisement. In this regard, we wish to refer to TAA No. 25, a copy attached, which pertains to the applicability of transaction value to importation under item 807.00, Tariff Schedules of the United States (TSUS), involving related parties.

(C.S.D. 83-5)

This Ruling Holds That Certain Tubing Entered Under Item 864.05, TSUS, Does Not Appear To Be Valuable Waste and Must be Exported or Destroyed

Date: August 13, 1982
File: CON-9-04-CO:R:CD:D
214273 L

Re: District of Customs, New Orleans, letter CON-9-04-NO:CV:IS KJH of April 19, 1982, and CON-9-04-NO:CV:RA of July 14, 1982

The District Director of Customs, New Orleans, has requested a ruling as to whether certain tubing, entered under item 864.05, Tariff Schedules of the United States (TSUS), after the effective date of Public Law 96-609, and subsequently rejected for its intended use because it does not meet A.P.I. specifications, is considered "valuable waste" within the meaning of Headnote 2(b)(ii), Schedule 8, Part 5C, TSUS. He also asks if Public Law 96-609, which became effective on December 28, 1980, has any effect on tubing entered temporarily free of duty under bond between April 11, 1978, and July 14, 1979, rejected as noted, but not exported or destroyed.

The basic issue raised, that is, whether the term "waste," as used in the Headnotes to Schedule 8, Part 5C, TSUS, includes "by-products" is covered by the enclosed April 6, 1982, ruling (CON-9-04-

CO:R:CD:D, 214044 R). That ruling concludes that "wastes" and "by-products" are not synonymous for the purposes of temporary importation under bond and that the term "articles;".encompasses "by-products."

We recognize the practical difficulties that may be encountered in making the distinction between a by-product and a valuable waste. Experience in making this decision in connection with item 864.05, TSUS, and Headnote 2(b)(ii) to Schedule 8, Part 5C, as amended by Public Law 96–609, is very limited.

However, such decisions are significant where drawback is concerned because drawback is allowable on exports of by-products, but not on exports of valuable waste. While there is no hard and fast rule, the judgment is based upon consideration of a number of elements and on the basis of the total picture. We adopt similar considerations here. The significant elements are:

1. The nature of the material of which the residue is composed.
2. The value of the residue as compared to the value of the principal product and the raw material.
3. The use to which it is put.
4. Its status under the tariff law, if imported.
5. Whether it is a commodity recognized in commerce.
6. Whether it must be subjected to some process to make it saleable.

We do not have sufficient information to rule on the status of the rejected tubing, but it appears to us to be a by-product. Applying the above criteria, it appears that the principal product and rejects are essentially similar, except that the rejects do not meet particular A.P.I. specifications. The relative values of the articles are not known.

The rejected pipe is said to be no longer useful as premium oil well tubing but appears to have a number of other uses that are not compatible with a classification as waste. If the rejected tubing were imported and entered for consumption, it probably would not be classified as waste. We have no information on whether rejected tubing is recognized in commerce, but it appears clear that there are markets for tubing which does not meet specific A.P.I. standards. Finally, it does not appear that any further processing is necessary to make the tubing saleable.

So far as the second question is concerned, valuable waste generated from articles imported temporarily free of duty under 864.05, TSUS, between April 11, 1978, and July 14, 1979, could remain in the United States upon tender of duty so long as it was covered by a valid temporary importation bond on the effective date of Public Law 96–609, December 28, 1980, and so long as the tender of duties is timely made within the maximum 3-year period from date of importation.

In this case, of course, the rejected tubing does not appear to be valuable waste and must be exported or destroyed to avoid breach of the bond.

(C.S.D. 83-6)

This Decision Holds That, Pursuant to 19 U.S.C. 2463(b)(1), Merchandise Destined for Another Foreign Country Upon Exportation, but Diverted to the United States Without Having Passed Through Any Other Foreign Country, and While Traveling the Same Course Taken In Order To Reach Its Ultimate United States Port of Entry, is Considered To Be "Imported Directly" for Purposes of the Generalized System of Preferences

Date: August 25, 1982
File: ENT-2-01 CO:R:E:E
720205 KP

This decision concerns the eligibility of merchandise for duty-free treatment under the Generalized System of Preferences (GSP) when said merchandise, at the time of exportation from its beneficiary developing country (BDC), is destined for another foreign country, but is subsequently diverted to the United States.

Issue: Under the Generalized System of Preferences (GSP), is merchandise which is destined for another foreign country upon exportation from a beneficiary developing country (BDC), considered to be "imported directly" into the United States under 19 U.S.C. 2463(b)(1) if, without passing through the territory of any other country, the merchandise is diverted to the United States along the same course which would have been required had the vessel originally set out for the U.S. port of entry?

Facts: Raw sugar from the Fiji Islands was entered into the United States at the port of Houston/Galveston. Inasmuch as GSP status was claimed for the sugar at the time of entry, the District Director of Customs at Houston requested evidence of direct shipment, i.e., the bill of lading for the merchandise in question. The bill of lading submitted by the importer indicated that the sugar was destined for the United Kingdom at the time of exportation from Fiji. However, documents subsequently submitted by the importer disclosed that the vessel, while traveling to the United Kingdom along the same course it normally would have taken to Galveston, Texas, was diverted to the United States to unload the sugar. The sugar was entered into the United States having not passed through the territory of any other country since its exportation from Fiji.

Law and analysis: Products of Fiji, under the provisions of Gen-
ıl Headnote 3(g), Tariff Schedules of the United States (TSUS),
e subject to rates of duty set forth in column 1 of the TSUS. Be-
use Fiji designated as a BDC for the GSP under General Head-
te 3(c)(i), TSUS, articles eligible for the GSP and imported from
ji may qualify for duty-free treatment.

The GSP provides a conditional free rate of duty as an alternative
the usual column 1 rate if certain requirements are satisfied.
ne such requirement is set forth in 19 U.S.C. 2463 as follows:

> (b) The duty-free treatment * * * shall apply only—
>
> (1) to an article which is imported directly from a beneficiary developing country into the customs territory of the United States; * * *

Section 10.175 of the Customs Regulations (19 CFR 10.175) de-
nes "imported directly," for GSP purposes, to mean:

> (a) Direct shipment from the beneficiary country to the United States without passing through the territory of any other country; or
>
> (b) Except as provided in paragraph (c) of this section, if shipped from a beneficiary developing country to the United States through the territory of any other country, the merchandise shall not have entered into the commerce of any other country while en route to the United States, and the invoices, bills of lading, and other documents connected with the shipment shall show the United States as the final destination; * * *

aragraph (c) of section 10.175 provides for the instance when mer-
nandise is shipped from the beneficiary developing country to the
nited States through a free trade zone in a BDC.

In the instant case, the raw sugar arrived in the United States
om Fiji without passing through the territory of any other coun-
y. Consequently, the determination as to whether this merchan-
se was "imported directly" for GSP purposes is governed by para-
raph (a) of section 10.175 of the Customs Regulations.

Significantly, and in contrast to paragraph (b) of the above sec-
on, paragraph (a) does not require that invoices, bills of lading,
nd other shipping documents show the United States as the final
estination of the subject merchandise. Thus while the indication
n the bill of lading that the United Kingdom was the final desti-
ation of the sugar may constitute evidence on the issue of direct
hipment under section 10.174(a) of the Customs Regulations (19
FR 10.174(a)), it does not preclude a finding that the shipment in
uestion was "imported directly," and is therefore entitled to duty-
ee treatment under the GSP, especially in light of the last sen-

tence of section 10.174(a), which provides that: sentence of section 10.174(a), which provides that:

> Any evidence of direct shipment required by the district director shall be subject to such verification as he deems necessary.

In this case, the District Director at the port of entry found it necessary to verify the evidence of direct shipment presented by the bill of lading. His further investigation disclosed that the merchandise, which had been destined for the United Kingdom upon export from Fiji, in fact was diverted to the United States while in transit. Furthermore, this modification in the vessel's voyage was made before the vessel proceeded in any direction other than along the same course which would have been required had the vessel originally left Fiji for Galveston.

Webster's Third New International Dictionary of the English Language, Unabridged, defines "direct" to mean "proceeding from one point to another in time or space without deviation or interruption." By this definition, the shipment of sugar must be characterized as direct in nature. Inasmuch as the shipment did not pass through the territory of any other country, this merchandise is considered to have been imported directly from Fiji into the United States for GSP purposes in accordance with section 10.175(a) of the Customs Regulations.

Holding: Raw sugar destined for the United Kingdom upon exportation from Fiji, but diverted to the United States while traveling the same course it normally would have taken to reach its ultimate port of entry in the United States from Fiji, which is entered having not passed through the territory of any other country, is considered to be "imported directly" into the United States for GSP purposes under 19 U.S.C. 2463(b)(1). This merchandise may be eligible for duty-free treatment under the GSP provided it otherwise qualifies.

(C.S.D. 83-7)

This Ruling Holds That a Drawback Claimant May Use an Approved Formula To Determine Nondesignated Fresh Orange Juice Used in Production in Lieu of Actual Measurements

Date: August 27, 1982
File: CO:R:CD:D
214887 V

Re: Request for further review of protest numbered 1801-1-00010 dated April 14, 1981

The following is in reply to your request for further review of the above-referenced protest.

Issue: In computing drawback, may a processor deduct an average range of pounds solids of non-designated fresh orange juice used as cutback during the production period?

Facts and positions of protestant: Drawback entries were liquidated with a reduction of 9.9 and 12.2 percent of the drawback claimed based on a mathematical formula used by Customs since 1973, in lieu of maintaining records, to determine the amount of fresh orange juice used as cutback to reduce the degree Brix of imported designated and/or domestic substituted concentrated orange juice for manufacturing in the production of frozen concentrated orange juice exported for drawback. The protestant is not contesting the formula but rather its applicability to the entries covered by the protest.

It is the position of the protestant that it used fresh orange juice (containing pounds solids) as cutback to reduce the degree Brix (65°) of designated concentrated orange juice for manufacturing in the production of frozen concentrated orange juice of 44.8° and 41.8° Brix for domestic consumption and that it used water, oils and/or essences (not containing pounds solids) as cutback in the production of frozen concentrated orange juice exported for drawback.

It is also the position of the protestant that its combined records of productions for both exportation and domestic consumption would show an average range between 7.93 and 5.88 pounds solids of fresh orange juice used as cutback and that the average range is less than that calculated by the use of the approved Customs mathematical formula.

Law and analysis: Under the substituted drawback law (19 U.S.C. 1313(b)), domestic merchandise may be substituted for imported merchandise of the same kind and quality for use in the manufacture or production of new and different articles exported for drawback (refund of duty). Fresh orange juice is not of the same kind and quality as concentrated orange juice for manufacturing. (See C.S.D. 81-96). Accordingly, drawback is not allowable for pounds solids of non-designated fresh orange juice used to cutback the degree Brix of designated concentrated orange juice for manufacturing.

"Pounds solid" is a form of measurement, used by both the citrus industry and Customs, to determine the amount of soluble solids, primarily sugars, in orange fruit, "Brix" is a scale for measuring the concentration of the solids in an orange juice product. The "degree Brix" of concentrated orange juice is converted into pounds solids to determine its value. Pounds solids may be converted into gallons to determine the duty on imported concentrated orange juice and the drawback allowed on exportation of orange juice products made with the use of designated concentrated orange juice. Fresh orange juice and concentrated orange juice contain pounds solids. Water, oils and/or essences do not contain pounds solids."

A processor, of course, may choose a manufacturing process which allows the most advantageous benefit of drawback. However, section 22.5(a)(6) of the Customs Regulations requires that the records of the manufacturer or producer shall show the quantity of merchandise of the same kind and quality as designated merchandise used in the manufacture or production of the exported articles. The purpose of this regulation is obvious. It is to protect the revenue by avoiding an overpayment of drawback. The Customs Service must be satisfied that the protestant's records of its manufacturing processes substantiate its claim that fresh orange juice not designated for drawback was not used as cutback in the productions of frozen concentrated orange juice exported for drawback.

The protestant's records show that fresh juice was used as cutback in its productions of frozen concentrated orange juice for the periods covered by the drawback entries. However, the records do not show that a particular production occurred during the production period without the use of fresh orange juice and that it was the production exported for drawback and covered by the drawback entry. The protestant's position that fresh orange juice was not used as cutback in its production of frozen concentrated orange juice exported for drawback is not sustained.

There is a long standing Customs practice in drawback which permits claimants to simplify procedures by reducing the amounts of their drawback. In these cases, they may waive a portion of their drawback in lieu of maintaining certain records. The mathematical formula approved by Customs in 1973, in which the protestant played an important part in its adoption, is in conformity with this practice. The procedure permits a processor who used non-designated fresh orange juice as cutback to use the formula to calculate the drawback in lieu of maintaining records of actual measurements. The use of the formula has proven to be beneficial to both the citrus industry and the Customs Service without endangering the revenue.

Holding: The approved mathematical formula used by Customs since 1973, is applicable when non-designated fresh orange juice is used as cutback in the production of orange juice products exported for drawback in lieu of maintaining records of actual measurements.

You are directed to deny the protest in full and furnish the protestant with a copy of this decision. Your file is returned herewith.

(C.S.D. 83-8)

This Decision Holds That, by Authority Invested in the Secretary of the Treasury (Public Law 81-891, 64 Stat. 1120), a Waiver of 46 U.S.C. 883 is Hereby Granted for the Movement of a Floating Drydock, Between Two U.S. Ports, on a Foreign-Flag Submersible Barge, Provided a United States-Flag Tug Qualified for Coastwise Trade Is Employed for the Tow

Date: August 30, 1982
File: 105686 HS

DEAR (Name): This is in response to your letter of June 15, 1982, requesting a waiver of title 46, United States Code, section 883, to permit (Company name and location) to transport a floating drydock from (U.S. Point) to (U.S. Point) on a foreign-flag submersible barge.

In your letter you stated that there are no United States-flag submersible barges of sufficient capacity to accommodate the drydock which is approximately 320 feet long by 100 feet wide. You stated that (Co. Name) is located near the (location) Naval Shipyard and expects to become a major participant in naval repair and construction, having already submitted several bids on Department of Defense programs. You claim that the availability of the drydock to (Co. Name) will enhance its ability to "better serve as a major component in the naval construction and repair industry of this country."

We have been advised by the Department of Defense that the drydock in question and the (Company Name) are important elements of the defense industrial base, and the planned movement of the drydock has the potential for converting an underutilized facility, with limited capability, into a fully serviceable facility which will enhance shipbuilding and repair capability for both naval and merchant ships in the (location) area. Accordingly, the Department of Defense states that the movement is deemed important to the national defense and if no United States-flag barge is available, granting of a waiver is warranted.

The Maritime Administration has advised us that there are no United States-flag submersible barges available suitable for the desired movement and that, if a United States-flag tug qualified for coastwise trade is employed for the tow of the barge, a waiver should be granted.

As you are aware, the Secretary of the Treasury has the authority to waive compliance with title 46, United States Codes, section 883, only "if necessary in the interest of national defense" (Act of December 27, 1950, 64 Stat. 1120). In view of the advice of both the Department of Defense and MARAD, we find that the movement of the floating drydock between (U.S. Point) and (U.S. Point) on a foreign-flag submersible barge, as requested, is in the interest of national defense. A waiver of section 883 is granted for this movement, subject to the stipulation that a United States-flag tug qualified for coastwise trade be employed for the tow.

(C.S.D. 83-9)

This Decision Holds That, Pursuant to the 6th Proviso, 46 U.S.C. 883, Qualify Foreign-Flag Vessels May Transport Qualifying Stevedoring Equipment Between Points in a Consolidated Customs Port

Date: September 2, 1982
File: VES-3-20 CO:R:CD:C
105757 PH

To: Regional Commissioner of Customs, San Francisco, Calif.
From: Director, Carriers, Drawback & Bonds Division
Subject: Application of Section 4.93, Customs Regulations, to the Transportation of Stevedoring Equipment and Material Between Points in the Consolidated Columbia River Customs Port

With his letter of August 19, 1982, the District Director, Portland, Oregon, forwarded a letter dated August 3, 1982, from (Name and location) on behalf of (Name) requesting an interpretation of section 4.93, Customs Regulations, and the sixth proviso to 46 U.S.C. 883, as applied to the transportation by vessels of specified foreign nations of qualifying stevedoring equipment and material between points in the consolidated Columbia River Customs Port. (Name) stated that "[f]ollowing the Customs Service's consolidation of several ports along and near the Columbia River into the Consolidated Port of Portland [see T.D. 73-338], local Customs officials concluded section 4.93, may mean that the exemption for stevedoring equipment applies only from port to port and not *within* a port." (Name) requested an "* * * interpretation explaining that section 4.93 applies to the points to and from which goods are shipped within consolidated ports just as it applies to shipments between points recognized by Customs as separate ports."

In commenting on (Name) letter, the District Director recommended that we rule that section 4.93 applies to movements between one "area" within a consolidated port and any other "area" within that consolidated port. The District Director stated that this interpretation would allow foreign-flag vessels the privileges they had prior to consolidation without allowing movements from one dock to another. The District Director stated that he finds it difficult to believe that the intent of section 4.93 was to allow a foreign-flag vessel to move empty cargo vans, stevedoring equipment, etc. for one dock to another within any port.

On August 2, 1982, Mr. Paul Hegland, a member of my staff, received a telephone inquiry on this subject from a Ms. Arnett Crom of Senator Mark O. Hatfield's Portland office. Mr. Hegland discussed this matter by telephone with the Customs Marine Officer in Portland on the same day and she confirmed that foreign-flag vessels are not being allowed to transport stevedoring equipment between points in the consolidated Columbia River Customs Port. She also stated that she had told the interested party in this case that he should request a ruling from Headquarters on the described transportation in order that the matter may be resolved.

(Name) letter apparently was prepared pursuant to the Portland Marine officer's suggestion. (Name) sent a copy of his letter to Senator Hatfield's Portland office and Senator Hatfield has a copy of (Name) letter to us with a request that we consider the matter. At this point we would like to emphasize that we believe the Portland Marine Officer's action in suggesting that the interested party in this case request a ruling was the correct way to handle this matter.

Title 46, United States Code, section 883 (the so-called "Jones Act"), prohibits the transportation of merchandise between points in the United States embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any other vessel than a vessel built in and documented under the laws of the United States and owned by citizens of the United States. The Act of August 11, 1968 (Public Law 90-474, 82 Stat. 700), amended the Jones Act to provide that "* * * upon such terms and conditions as the Secretary of the Treasury by regulation may prescribe, and, if the transporting vessel is of foreign register, upon a finding by the Secretary of the Treasury, pursuant to information obtained and furnished by the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States, this section shall not apply to the transportation by vessels of the United States not qualified to engage in the coastwise trade, or by vessels of foreign registry, of * * * (e) stevedoring equipment and material, if such equipment and material is owned or leased by the owner or operator of the transporting vessel, or is owned or leased by the stevedoring company contracting for the lading or unlading of that vessel, and is transported without charge for use in the handling of cargo in foreign trade."

Section 4.93(a)(2), Customs Regulations, contains the Customs Regulations promulgated under this statute. Under that section, the exemption provided under the sixth proviso to the Jones Act applies to transportation of the articles named in the sixth proviso "* * * between *points* embraced within the coastwise laws of the United States. (Emphasis added.)

Section 4.93(c), Customs Regulations, provides, in part, that "[a]ny Cargo Declaration, Customs Form 1302, required to be filed under this part by any foreign vessel shall describe any article mentioned in paragraph (a) of this section laden aboard and transported from one United States port to another, * * *." Section 4.93(c) also requires that certain information be given to Customs and that a statement as to the ownership or leasing of the stevedoring equipment be made in the case of transportation of such articles.

(Name) is correct in his contention that vessels entitled to the exemption for stevedoring equipment in the sixth proviso to the Jones Act may transport qualifying stevedoring equipment and material between points in the consolidated Columbia River Customs Port. The sixth proviso applies to transportation between any United States points, whether the points are areas or different docks within a consolidated Customs port or an unconsolidated Customs port. This is clearly provided by statute (46 U.S.C. 883 applies to transportation between *points* in the United States and the sixth proviso provides that section 883 shall not apply to the described transportation of stevedoring equipment and materials).

Apparently, the reason the described transportation of stevedoring equipment has not been allowed in the consolidated Columbia River Customs Port is that paragraph (c) of section 4.93 refers to transportation "* * * from one United States port to another * * *" and the transportation under consideration is between two points in the same port.

The provision in section 4.93(c) is merely procedural and, in any event, may not override the statutory provision allowing the described transportation. However, in order to assure compliance with the sixth proviso of section 883, prior to the transportation of the stevedoring equipment and material between points within the port, a statement describing the article and providing the ownership or leasing information required by section 4.93(c) must be presented to Customs.

We hope that this memorandum has clarified this matter and that if you have any comments or questions you will feel free to write to use or to call the member of my staff who prepared this memorandum, Mr. Paul Hegland (FTS 566-5706).

(C.S.D. 83-10)

This Ruling Holds That a Broker May Not Continue To File Claims for Drawback and Receive Monies for the Bankrupt Claimant Unless the Contract Between the Broker and the Claimant Is Assumed by the Trustee in Bankruptcy, or the Latter, With the Approval of the Bankruptcy Court, Enters Into a New Agreement With the Broker Concerning the Filing of Claims

Date: September 20, 1982
File: DRA-1-09:CO:R:CD:D
214412 B

Issue: May a broker continue to file drawback claims and receive monies in behalf of a corporation after a petition for voluntary or involuntary bankruptcy is filed in a bankruptcy court?

Facts: A drawback broker, who has a contract to file for drawback for a corporate client, has asked if he may continue to file claims for drawback in behalf of that client should a petition for bankruptcy be filed.

Law and analysis: Drawback refunds are considered assets of the person or entity entitled to them. Under the Federal Bankruptcy Law, in 11 U.S.C. 363, "cash collateral" includes cash itself when a question of use, sale, or lease of property of the estate of a bankrupt is concerned.

The trustee in bankruptcy may not use, sell, or lease cash collateral unless each entity that has an interest in such cash collateral consents, or the court after notice and hearing authorizes such use, sale, or lease of the cash collateral (11 U.S.C. 363(b)(2)(B)).

Should a drawback claimant file for bankruptcy, Customs would freeze any monies owed the claimant until an assessment is made of the claimant's standing in relation to monies owed Customs by the claimant. If the claimant owed monies to Customs at the time a petition for bankruptcy is filed, such filing would stay any act to collect, assess, recover, or setoff that debt brought before the petition for bankruptcy was filed 11 U.S.C. 362(a)(6)(7)). This applies to voluntary petitions under 11 U.S.C. 301 and involuntary petitions filed under 11 U.S.. 303.

After the petition for bankruptcy is filed, however, Customs would have the right to file for a setoff of the debt under the provisions of 11 U.S.C. 553(a). If a claimant was entitled to drawback refunds, and owes no money to Customs we would deliver these refunds to the trustee as required by 11 U.S.C. 542, after he submits a drawback contract signed by the trustee, as successor to the bankrupt entity. Section 542 requires any entity in possession or control of "cash collateral" referred to in section 363 to turn over such collateral to the trustee. After any setoff is adjudicated, any monies owed the bankrupt by Customs would be paid to the trustee. In no case would Customs pay monies to an individual or corporation other than the trustee unless we are so directed by the court or we are informed in writing by the trustees that a contract between the bankrupt and, for example, a drawback broker had been assumed by the trustee pursuant to 11 U.S.C. 365. Under that provision, a trustee in bankruptcy may assume or reject an executory contract in force at the time the petition was filed. Any power of attorney issued by a claimant prior to bankruptcy to a broker to file for drawback would be in the nature of an executory contract. Or, it would be possible for the trustee, with the approval of the court to engage a broker to file drawback claims for the bankrupt claimant. Under section 14.40 of the Customs Regulations a trustee may execute a power of attorney for the transaction of Customs business. However, the filing for bankruptcy is insufficient grounds to grant an extension of the three period in which claims must be completed, as required by section 22.13(a), Customs Regulations.

Holding: Upon the filing of a petition in bankruptcy, a broker may not continue to file claims for drawback and receive monies for the bankrupt claimant, unless the contract between the broker and claimant is assumed by the trustee in bankruptcy, or the latter, with the approval of the bankruptcy court, enters into a new agreement with the broker concerning the filing of claims. Any claims filed after the petition for bankruptcy require a new drawback contract signed by the trustee as successor to the bankrupt corporation.

(C.S.D. 83-11)

This Ruling Holds That a Foreign-Flag Yacht May Not Be Time Chartered and Used To Transport Passengers Between U.S. Ports (46 U.S.C. 289)

Date: August 26, 1982
File: VES-4-03-CO:R:CD:C
105747 JM

This ruling concerns the use of a foreign-flag yacht in the United States.

Issue: Whether a French-flag yacht may be chartered for use in the United States for pleasure purposes?

Facts: Four Frenchmen plan to charter a French-flag yacht for use in the United States. The charterers plan to board the yacht in North Carolina, sail to Bermuda and then sail to Newport, Rhode Island, where they will leave the yacht and fly back to France. A captain and cook will be assigned to the yacht and paid by the charterers. The inquirer asks whether this use of the vessel will violate any laws of the United States.

Law and analysis: Title 46, United States Code, section 289, a coastwise law of the United States administered by the U.S. Customs Service, provides in pertinent part that no foreign vessel shall transport passengers between ports or places in the United States, either directly or by way of a foreign port. The statute provides a penalty of $200 for each passenger so transported and landed.

Under section 4.50(b), Customs Regulations (19 CFR 4.50(b)), a passenger within the meaning of the coastwise laws is defined as "any person carried on a vessel who is not connected with the operation of such vessel, her navigation, ownership or business."

The inquirer characterizes the proposed charter as a bareboat charter. However, the nature of a charter is a question of fact to be determined by the circumstances of the case. Under a bareboat or demise charter, the owner relinquishes complete control and management to the charterers for the charter period. If the owner retains any degree of management or control, however slight, the charter is a time or voyage charter. The decisive factor is whether complete control and management has been surrendered by the owner to the charterers so that for the charter period the charterers are in effect the owners *pro hac vice* (i.e., for this turn; for this one particular occasion).

The importance of whether or not the yacht is under a bareboat or time charter relates to the determination as to whether or not the charterers are "passengers" under 46 U.S.C. 289.

Under admiralty law, bona fide bareboat charterers of vessels are considered as owners *pro hac vice* and, since owners of vessels are not considered to be "passengers" as defined in section 4.50(b), Customs Regulations, bareboat charterers are not covered by the term "passengers" in 46 U.S.C. 289.

In this case, condition 11 of the charter agreement states that if "the charterer wishes to utilize the services of a captain and/or crew members in connection with the operation and management of the yacht, whether said captain and/or crew members are furnished by the owner or by the charterer, it is agreed that said captain and/or crew members are agents and employees of the charterer and not of the owner." While this alone indicates that the charter is a bareboat charter, it is noted that the charter agreement goes on to provide that if the owner provides his own captain and/or crew, the captain "shall handle clearance and the normal running of the yacht subject to the limitations of this charter party . . . the captain shall be responsible for the safe navigation of the yacht, and the charterer shall abide by his judgment as to sailing, weather, anchorages, and pertinent matters." Thus, it appears that the owner will retain a degree of management and control through his employee, the "captain", and that therefore the charter is a time charter and the charterers would be considered "passengers."

Therefore, if the time charterers are embarked on the foreign-flag vessel in North Carolina, are transported via Bermuda to Newport, Rhode Island, and are disembarked in Newport, there would be a violation of title 46 United States Code, section 289. It appears that condition 14 of the charter agreement, which does not apply to this case, covering the "operation of the yacht (by the charterer) himself," and providing for a certification as to the charter's competence with regard to seamanship, piloting, etc., is intended to cover a bareboat charter situation.

Holding: The charterers under the proposed charter arrangement will be operating the yacht under a time charter. Operation of the vessel on the proposed voyage will constitute a violation of title 46, United States Code, section 289.

(C.S.D. 83-12)

This Decision Addresses the Method of Valuation Under Section 402(b) and (e), Tariff Act of 1930, as Amended by the Trade Agreements Act of 1979, of Reject Material and Scrap Produced in a Foreign Trade Zone.

Date: September 15, 1982.
File: CLA-2 CO:R:CV:V
542835 LPD

To: District Director of Customs, Mobile, Alabama 36601

From: Director, Classification and Value Division

Subject: Internal Advice Memorandum Dated March 24, 1982, Concerning Merchandise Undergoing Manufacture in a Foreign-Trade Zone

This is in further regard to the above-referenced memorandum and a reply memorandum from the Chief, Drawback and Bonds Branch, dated June 4, 1982, advising that the Value Branch would respond to the value questions which you raised.

In your memorandum you stated that carbon steel plate from various countries is imported into the United States to be admitted to the foreign-trade zone (zone) at Panama City, Florida, for processing into finished steel pipe. The steel plate is admitted into the zone in both privileged and nonprivileged status, depending upon whether a dumping order has been issued. After processing, the finished steel pipe is removed for export to be used in oil piplines.

In processing the carbon plate into steel pipe, reject pipe and steel scrap by-products are produced. Because the reject pipe does not meet the manufacturer's specifications for use in oil pipelines, it is withdrawn from the zone for consumption in the United States for use in water and irrigation lines and storm drains. The scrap by-products, steel shavings, are entered and sold for their scrap value.

You wish to know how to determine the value of this merchandise.

Sections 146.21(c)(3)(i) and (ii), Customs Regulations provide that privileged foreign merchandise is appraised and classified according to its condition and quantity, and according to the rates of duty and tax, in force on the date of filing the request for privileged foreign status and is valued in accordance with the appropriate sections of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (TAA).

Section 146.48(e), Customs Regulations provides that articles composed entirely of nonprivileged merchandise or in part of nonprivileged merchandise and in part of privileged merchandise are appraised and classified in accordance with their character and condition at the time of their constructive transfer into the customs territory and are valued in accordance with the approriate sections of the Tariff Act of 1930, as amended. However, the following expenses are excluded in determining the dutiable value of such merchandise:

1. The cost of fabrication or other processing as well as the general expenses and profit related to zone operations; and,
2. All other expenses incurred in the zone incidental to placing the article in condition, packed ready for transfer, and freight, insurance, and similar costs incurred after the article is packed ready for transfer into the customs territory.

In addition, charges or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation in the United States also would be excluded from the dutiable value of the merchandise.

If the reject pipe is comprised entirely of privileged material, it would be valued under section 402(b), Tariff Act of 1930, as amended by the TAA, dutiable at the rates of duty in force, and according to its condition and quantity, on the date that the request for privileged foreign status was filed.

Reject pipe comprised entirely of nonprivileged merchandise or a combination of privileged and nonprivileged merchandise would be valued under section 402(e), TAA, in accordance with its character and condition at the time of its transfer into the customs territory, making allowance for the exclusions set forth above. The net result is that the nonprivileged foreign merchandise would be valued at its cost to the importer, exclusive of international shipping costs.

In determining the value of merchandise comprised of a combination of privileged foreign and nonprivileged merchandise, the cost of the privileged components would be based upon its condition and quantity and according to the rates of duty and tax in force on the date of filing the request for privileged foreign status.

The scrap, if not classified under a free provision, would be valued according to its sale price or market value at the time of its constructive transfer from the zone into the customs territory in accordance with section 500, Tariff Act of 1930, as amended.

(C.S.D. 83-13)

This Decision Holds That A Nonproducing and Abandoned, Plugged or Capped Oil Well on the United States Outer Continental Shelf Is Not a Point Subject to the Coastwise Laws

Date: September 16, 1982
File: VES-3-15-CO:R:CD:C
105794 PH

This ruling concerns the applicability of the coastwise laws to a point on the United States outer continental shelf at which an oil well has been plugged because it has been determined to be nonproductive.

Issue: Whether a plugged or capped oil well on the United States outer continental shelf is a point subject to the coastwise laws?

Facts: The inquirer represents the owners of a United States-flag jack-up drilling rig located more than 40 miles off the shore of Alaska in Norton Sound. The owners of the drilling rig intend to transport it to a drilling site more than 3 miles off the shore of Long Beach, California. The drilling rig is to be transported on a foreign-flag submersible barge.

In a ruling dated July 1, 1982 (file VES-3-15-CO:R:CD:C 105698 PH), we ruled that the coastwise laws *are violated* when a United States-flag jack-up drilling rig is towed on a foreign-flag submersible barge from a point more than 40 miles off the shore of Alaska (assumed to be a point subject to the coastwise laws) to a point more than 3 miles off the shore of Long Beach, California, if there is an installation or device submerged onto or attached to the outer continental shelf at the latter point; *but* those laws are *not* violated if there is no installation or device submerged onto or attached to the outer continental shelf at the latter point.

In a request for a ruling supplementing our July 1, 1982, ruling, the inquirer submits additional information about the point from which the drilling rig is to be transported. That point is to be plugged and abandoned as a non-producing well. The procedure for plugging a non-producing well is described in an affidavit by the inquirer's client as set forth below.

After a determination is made that the well is a non-producing well, a cement plug is set at the bottom of the smallest diameter string of casing cemented in the well. This plug extends up into the casing and down into the uncased open hole in the earth below the casing. A second plug is then set at approximately mid-depth in the well, on top of a mechanical sealing component which is placed inside the smallest diameter casing. A third plug is then set approximately 200-500 feet below the mud line inside the smallest diameter casing. All casings are then severed at a point approximately 5-15 feet below the mud line so that nothing of the well is left protruding above the point at which the casings were severed. The rig is jacked down into the water until it is in a floating mode and the legs have been raised up from the seabed. Nothing remains behind protruding up from the seabed or in the water to identify where the drilling had taken place.

The inquirer requests a ruling that the point on the United States outer continental shelf from which the drilling rig is transported, as described above, is not a point subject to the coastwise laws.

Law and analysis: Title 46, United States Code, section 883, in part, prohibits the transportation of merchandise between points in the United States embraced within the coastwise laws, either di-

y or via a foreign port, or for any part of the transportation, in
other vessel than a vessel built in and documented under the
of the United States and owned by citizens of the United
es. Section 316(d) of title 46, with certain exceptions not here
vant, prohibits the engagement in salvaging operations by a
gn vessel "* * * on the Atlantic or Pacific coast of the United
es, in any portion of the Great Lakes * * * or in territorial
rs of the United States on the Gulf of Mexico * * * ." The Cus-
Service has long held that points in the territorial waters of
United States are points in the United States embraced within
coastwise laws. The territorial waters of the United States do
extend beyond the territorial sea, defined as the belt, 3 nautical
s wide, adjacent to the coast of the United States and seaward
e territorial sea baseline (Treasury Decision 78-440).

ction 4(a) of the Outer Continental Shelf Lands Act of 1953, as
nded by the Outer Continental Shelf Lands Act Amendment of
(43 U.S.C. 1333(a)) (the Act), provides, in part, that the laws of
United States are extended to the subsoil and seabed of the
r continental shelf (shelf) and to all installations and other de-
s permanently or temporarily attached to the seabed which
be erected thereon for the purpose of exploring for, develop-
or producing resources therefrom to the same extent as if the
f were an area of exclusive Federal jurisdiction located within
ate. The 1978 amendment to section 4(a) of the Act substituted
d all installations and other devices permanently or temporari-
ttached to the seabed" for "and fixed structures."

reasury Decision 54281(1), publishing an abstract of a Customs
sion dated December 11, 1956, stated, in part, that the coast-
e laws are extended to mobile rigs during the period they are
ured to or submerged onto the seabed of the shelf. Subsequent
ngs applied the same principles to drilling platforms, artificial
nds, and similar structures.

ruling letter VES-3-15 RRUCDC 104880 JL, October 22, 1980
blished as Customs Service Decision 81-95), Treasury Decision
81(1) was expanded so that the Customs and navigation laws, in-
ding the coastwise laws, apply to devices such as a buoy marker
merged onto or attached to the shelf for the purpose of resource
loration operations, and to a well casing with attendant accesso-
ystems, when submerged into the seabed of the shelf. The basis
expanding Treasury Decision 54281(1) was the 1978 amendment
ection 4(a) of the Act.

ur October 22, 1980, ruling letter was modified by ruling letter
S-3-15 CO:R:CD:C 104983/104880 JM, Febraury 26, 1981. In this
ing, we held that a point at which no buoy marker is submerged
o or attached to the shelf and no well has been sunk into the
bed is not a coastwise point even if there are buoys or wells in
general vicinity.

In a telegram dated July 27, 1979 (file VES-5-13/VES-10-01/VES-10-02-R:CD:C 104099 JL), we ruled that the use of a foreign-flag vessel in salvage operations and the removal of a drilling rig located on the outer continental shelf is prohibited by 46 U.S.C. 316(d).

Our October 22, 1980, ruling letter was predicated upon a factual situation in which the locations of activity (the points on the outer continental shelf where the merchandise and/or passengers were to be unladed) were "* * * either operational locations which are sites selected for drilling and marked by buoys attached to the seabed, or locations where a well has been drilled and casings and pipes are in place in the seabed awaiting the placement of a production platform or vessel for the extraction of the mineral deposit." Our July 27, 1979, telegram pertained to "* * * salvage operations and wreck removal of the rig which sustained a blowout * * *."

In the case at hand, the drilling rig will be transported from a well that has been concluded to be non-producing and has been sealed. Thus this case is distinguished from our October 22, 1980, ruling letter. There is no apparent circumstance in this case which would result in the application of the statute covering coastwise salvage (46 U.S.C. 316(d)) and so this case is also distinguished from our July 27, 1979, telegram. (See definitions of "salvage" and related terms in *de Kerchove's International Maritime Dictionary* (1954 edition), pages 622 and 623, and *Black's Law Dictionary* (1968 edition), page 1506.) A non-producing well that has been sealed or plugged as described in the affidavit is not, in our opinion, an installation or other device attached to the seabed of the outer continental shelf for the purpose of exploring for, developing, or producing resources therefrom so that it would be a coastwise point by virtue of 43 U.S.C. 1333(a). Accordingly, we conclude that the abandoned and plugged well from which the drilling rig is to be transported is not a point subject to the coastwise laws.

Holding: A plugged or capped oil well on the United States outer continental shelf, plugged as described in this ruling, is not a point subject to the coastwise laws.

Effect on other rulings: Ruling letter VES-3-15 RRUCDC 104880 JL, October 22, 1980 (C.S.D. 81-95), and telegram VES-5-13/VES-10-01/VES-10-02-R:CD:C 104099 JL, July 27, 1979, *distinguished.*

(C.S.D. 83-14)

This Ruling Holds That Freight Charges From U.S. Port of Exportation to Foreign Assembler's Plant Are Not Part of Component Value Under Item 807.00, TSUS and TAA

Date: September 22, 1982
File: CLA-2 CO:R:CV:V
542832 MK
TAA #53

To: District Director of Customs, New Orleans, Louisiana 70130

From: Director, Classification and Value Division

Subject: Dutiability of Freight Costs from U.S. Port of Exportation to the Foreign Assembler's Plant; I.A. 64/82

Your memorandum of April 15, 1982 (received from the Customs Information Exchange on May 26, 1982), forwarded a request for Internal Advice submitted by the attorney for (the importer).

The importer supplies U.S. components free of charge to an assembler in El Salvador. The merchandise is eligible for a partial exemption from duty under item 807.00, TSUS, and transaction value is the agreed upon basis of appraisement.

The attorney notes that under the laws in effect prior to the effective date of the Trade Agreements Act of 1979 (TAA), Customs deducted freight costs to the U.S. port of exportation in arriving at the net dutiable value under item 807.00, but did not deduct freight costs from the U.S. port of exportation to the foreign assembler's plant.

Under the TAA, the Statement of Administrative Action, and section 152.103 of the regulations, the value of an assist (the statutory definition of which covers the components in question) includes transportation costs to the place of production. The attorney therefore contends that under the TAA freight costs to the assembler's plant should be deducted in arriving at the dutiable value under item 807.00.

Item 807.00 provides for:

> A duty upon the full value of the imported article, less the cost or value of such products of the United States (see headnote 3 of this subpart)

Headnote 3 of Part 1B, Schedule 8, TSUS provides that:

> (a) The value of the products of the United States assembled into the imported articles shall be—
>
> (i) the cost of such products at the time of last purchase; or
>
> (ii) if no charge is made, the value of such products at the time of shipment for exportation, as set out in the invoice and entry papers * * *

Section 10.17, Customs Regulations, contains essentially the same language as the cited headnote.

Inasmuch as the TAA made no changes to the cited provisions of law and regulation relating to item 807.00, we find no legal basis for changing our practice in arriving at the dutiable value of articles subject to an allowance of duties under that item number.

Accordingly, we conclude that freight charges to the U.S. port of exportation will continue to be regarded as part of the cost or value of the U.S. components and will be deducted from the dutiable value of the imported article under item 807.00. No deduction will be made for freight charges from the U.S. port of exportation to the assembler's plant, and such charges will continue to be part of the dutiable value of the assembled article.

(C.S.D. 83-15)

This Ruling Holds That a District Director Is Authorized To Allow Separate Entries To Be Made for Different Portions of All the Merchandise Arriving On One Vessel and Consigned to One Consignee if the Consignee Desires To Enter Different Portions of the Merchandise at Different Ports of Entry. However, the District Director Must Be Satisfied That There Will Be No Prejudice to the Revenue or to the Efficient Conduct of Customs Business.

Date: September 30, 1982
File: TRA-6 CO:R:E:E
720236 KP

This ruling concerns whether a broker may make separate entries for different portions of all the merchandise arriving on one vessel and consigned to one consignee if the consignee desires to enter the merchandise at different ports of entry.

Issue: Under section 141.52(c) of the Customs Regulations (19 CFR 141.52(c)), may a broker make separate entries for different portions of all the merchandise arriving on one vessel and consigned to one consignee if the consignee desires to expedite certain portions of the shipment, the balance of which will be transported in bond to another port of entry, by entering that merchandise at the port of arrival?

Facts: A broker proposes to enter certain shipments of auto parts in the following manner:

Vessels carrying approximately 100 containers of auto parts consigned to one manufacturer will arrive at various U.S. ports of entry. All auto parts in each shipment will be included on one bill of lading.

Upon the arrival of a shipment, the broker will ordinarily transport all the merchandise in bond by surface carrier to another port of entry, accompanied by in-bond documents for each container in the shipment. Occasionally, though, the consignee will need different portions of a shipment promptly upon its arrival in the United ates. For those shipments, the broker proposes to remove the ish merchandise from the containers at the port of arrival, file a nsumption entry and deposit duty on that merchandise, and send to the consignee's plant by air. The non-rush merchandise in iose shipments would then be transported in bond as described bove.

Law and analysis: Section 141.51 of the Customs Regulations (19 FR 141.51) provides that all merchandise arriving on one vessel or ehicle and consigned to one consignee shall be included in one ntry, except as provided in section 141.52.

Section 141.52, Customs Regulations (19 CFR 141.52), lists nine ets of circumstances under which the rule in section 141.51 need ot be followed, provided that the district director is satisfied that uch noncompliance will not prejudice either the revenue or the eficient conduct of Customs business. One such situation, set forth n paragraph (c) of section 141.52, is when the consignee of the merhandise desires to enter different portions of it under different orms of entry, for transportation to different ports of entry, or for arehousing in separate warehouses.

In this case, the consignee wishes to enter different portions of a hipment for transportation to different ports of entry so that the rgently needed parts may arrive at the consignee's plant as soon s possible. Such circumstances clearly entitle a district director to ermit the broker to make separate entries for all the consignee's nerchandise arriving on one vessel under the provisions of section 41.52(c) of the Customs Regulations. However, under the same secion, the district director may refuse to permit the broker to make eparate entries if he believes that either the revenue or the effiient conduct of Customs business may be prejudiced thereby.

Holding: A district director is authorized to allow a broker to nake separate entries for different portions of all the merchandise rriving on one vessel and consigned to one consignee when the onsignee desires to expedite certain portions of the shipment by ntering that merchandise at the port of arrival, and transporting he balance of the shipment in bond to another port of entry. Nevrtheless, permission to make separate entries may be withheld if he district director is not satisfied that there will be no prejudice o the revenue or to the efficient conduct of Customs business.

(C.S.D. 83-16)

his Ruling Contains an Interpretation of the Requirements Set Forth in the Rejected Merchandise Drawback Statute

Date: November 22, 1982
File: CO:R:CD:D
215250 R

Re: Protest 1001-2-009298

This is in response to the above protest of August 25, 1982, which we received on October 28, 1982. The issue is whether drawback under 19 U.S.C. 1313(c) can be allowed in the case of merchandise that was not returned to Customs custody within 90 days after release.

The merchandise was entered under a tariff provision that exempted the merchandise from duty so long as it was chiefly used in the manner set forth in the provision. It is claimed that the importer's customer rejected the merchandise on the ground that the merchandise did not meet specifications. However, no evidence was presented on any aspect of that point. There is no evidence to show that any specifications were involved. There is no evidence to show that the importer's customer refused to accept the merchandise because it failed to meet specifications, other than the counsel's bare assertion in the protest. Such an assertion is not sufficient to support a claim for drawback. *Border Brokerage Company* v. *U.S.*, 53 Cust. Ct. 6, C.D. 2465 (1964).

The protestant claims that it is entitled to drawback under 19 U.S.C. 1313(c) because it can "demonstrate that the merchandise was exported within 90 days after being released from Customs custody, as required by 19 U.S.C. 1313(c)." However, the statutory requirement at issue is somewhat different than that quoted. The relevant portion of the statute requires "within ninety days after release from Customs custody, unless the Secretary authorizes in writing a longer time, *returned to Customs custody for exportation*" (emphasis supplied). There is no evidence to show compliance with that requirement. *J. Einstein* v. *U.S.*, 34 Cust. Ct. 31, C.D. 1673 (1955); *Swan Tricot Mills Corporation* v. *U.S.*, 63 Cust. Ct. 530, C.D. 3948 (1969); *Garrett Hewitt International* v. *U.S.*, 65 Cust. Ct. 656, C.D. 4154 (1970); and *GAF Corporation* v. *U.S.*, 72 Cust. Ct. 153, C.D. 4526 (1974).

The cases of *American Pistachio Corporation* v. *U.S.*, 23 Cust. Ct. 103, C.D. 1198 (1949) and *Lockheed Petroleum Services Ltd.* v. *U.S.* (ITC Slip Op. 82-57, 16 Cust. Bull. No. 33, page 46 (1982) cited by protestant are distinguishable. In both cases, the courts found that the claimant complied with each of the statutory requirements. Here, there is no evidence to show that the merchandise was rejected for not conforming to specifications and there is no showing that the merchandise was returned to Customs custody within 90 days from release. In the *American Pistachio* case, *supra*, the court at pages 107 and 108 found that the regulatory provision was unreasonable and contrary to the letter, spirit, and intent of the statute. That court stated at page 109 it was satisfied that all of the requirements of the statute were met. Here, there is no showing that two express statutory requirements were met. The Government has appealed the decision in the *Lockheed Petroleum* case (Appeal 82-35, 16 Cust. Bull. No. 42, page 42). In addition, the lower court's decision there was based on the finding that the requirements of the statute were satisified. (See Slip Op. 82-57, 16 Cust. Bull. No. 33, page 54).

You are directed to deny the protest in full.

(C.S.D. 83-17)

This Decision Holds That a Captain of a Yacht Being Offered For Sale, Who Remains Aboard the Yacht, Using Its Living Quarters as an Incidence to His Duties of Operation, Does Not Render the Yacht Ineligible for Same Condition Drawback Under 19 U.S.C. 1313(j)

Date: November 30, 1982
File: DRA-1-09-CO:R:CD:D
215331 B

Issue: Is a yacht or other dutiable boat imported for the purpose of being offered for sale eligible for same condition drawback if, in conjunction with the sale, sea trials are held and the captain of the boat remains aboard at all times for purposes of upkeep and security?

Facts: A dutiable yacht owned by a resident of Great Britain will be imported by a yacht broker. The boat, as part of the effort to sell it, will undergo demonstration sea trials for prospective buyers. The owner of the boat will not be aboard it during the time involved in selling it. However, the captain will remain on board at all times for purposes of operation, upkeep, and security. The boat's owner and the broker are concerned that the captain's remaining aboard will negate same condition drawback.

Law and analysis: Offering merchandise or articles for sale does not negate the provisions of 1313(j), nor does demonstration connected with such offers render the articles or merchandise ineligible. However, if the demonstrations result in the articles' or merchandise becoming significantly deteriorated, same condition drawback would not apply.

In C.S.D. 81-222, we held that any article put to its intended use after importation was not eligible for same condition drawback. Therefore, a yacht imported and used for transportation, excursions, fishing, or any of those utilitarian purposes for which yachts are built would not be eligible for same condition treatment. So too should a yacht having living accommodations be used as the primary living quarters for the owner or his or her invitees, such use would negate the benefits of the law.

In this case, the captain of the boat is neither the owner nor an invitee. He is the employee of the owner charged with the operation, upkeep, and guardianship of the boat. The fact that he must use the boat as living quarters as an incidence of his duties in efforts to sell the boat does not render such an operation one proscribed by the law. Such use is considered a necessary incidence to an operation, that is, the offering for sale, allowed by 19 U.S.C. 1313(j).

Holding: The fact that a captain of a yacht being offered for sale remains aboard the boat, using its living quarters as an incidence to his duties of operation, upkeep, and guardianship of the boat, does not render the boat ineligibe for same condition drawback.

(C.S.D. 83-18)

This Decision Holds That Stack Covers, Used To Protect the Boilers and Engine Room of a Ship From Rain, Snow, and Other Corrosive Elements Are Nondutiable Under the Vessel Repair Statute, 19 U.S.C. 1466(a)

Date: December 3, 1982
File: VES-13-18 CO:R:CD:C
105708 JL

To: Vessel Repair Liquidation Unit, San Francisco

From: Director, Carriers, Drawback and Bonds Division

Subject: V/R entry No. 81-541589, Seattle, June 9, 1981 (Vessel Name)

This refers to your request for advice of July 1, 1982, asking whether stack covers purchased for the subject vessel are dutiable under 19 U.S.C. 1466(a).

Depending upon local weather conditions, stack covers are fitted to a vessel when it lays over at a port for a period of time. The covers may be made of canvas, sheet metal, or wood and are discarded when the lay period ends. The purpose of the cover is to protect the boilers and engine room from rain, snow, and the rapid corrosion that occurs when rain water mixes with sulphur in the ashes to form sulphuric acid. The owner states that the covers are discarded when the lay period terminates.

Inasmuch as the covers are utilized to protect a vessel while in port but are not additions to the ship's equipment, we are of the opinion that the expenses of purchasing, fitting, and removing them are nondutiable under the vessel repair statute. If the covers were kept with the vessel when it left port, they would be classifiable as dutiable equipment purchases. These costs are similar to drydocking charges which, of course, are not dutiable.

(C.S.D. 83-19)

This Decision Holds That a Manufacture or Production Process Which Fails in its Intended Results Is Ineligible for Same Condition Drawback Under 19 U.S.C. 1313(j)

Date: December 8, 1982
File: DRA-1-09-CO:R:CD:D
214900 B

Issue: Is a cleaning process which involves dissolving and recrystalization of a crystaline antioxidant a permissible incidental operation allowed under the same condition drawback law, 19 U.S.C. 1313(j)?

Facts: Counsel for a corporation has asked whether the following two treatments of an antioxidant are permissible under the same condition drawback law:

1. The contents of 32 steel drums of off-specification antioxidant were filtered (screened) in preparation for a recrystalization process which was not performed. After the filtering, the antioxidant was placed in 73 fiber drums. Nothing other than filtering and repacking was done to this substance.
2. The contents of 139 drums were subjected to a cleaning process which consisted of a recrystalization by dissolving the crystaline antioxidant in an organic solvent, washing and filtering that solution, cooling the solution to cause fractional crystalization, centrifugation to remove impurities, and drying to remove residual solvent and wash liquid.

In March 1981, the corporation imported 179 drums of crystaline antioxidant which the corporation knew to be off-color from 1 to .25 MN and to contain impurities. The purpose of the importation was to restore the antioxidant's color and purity specifications to make it saleable under the corporation's trade name for the substance. Eight drums of antioxidant remain intact as imported; the other antioxidant was subjected to one of the two above-described operations in the quantities noted.

Law and analysis: The antioxidant which remains intact as imported is eligible for same condition drawback, as is the antioxidant which was screened (filtered) only, and repacked, because the screening in this case is a cleaning operation which did not render the antioxidant fit for a use which absent the operation it was unsuited nor did this operation change the basic characteristics of the substance. Repacking is specifically allowed under the same condition drawback law.

The second operation described under "Facts" is a different matter. The dissolving of the antioxidant in solution and the fractional recrystalization thereof changed the substance from a crystal-line form to a liquid form thence to a recrystalized form. This changing of the basic form of the substance in an effort to make it marketable constitutes a manufacturing process. The reform crystals are not the same crystals which were introduced into the process. Secondly, the fact that a process of manufacture does not produce desired results does not render the process any less a manufacture. It cannot be argued that had this recrystalization process produced a marketable product the process would not constitute a manufacture or production. The fact that after the recrystalization the antioxidant remained off-specification does not change the fact that a manufacture or production occurred.

Holding: The antioxidant which remains intact, having undergone no processing of any nature, as well as the antioxidant which was screened or filtered, and repacked, are both eligible for the same condition drawback upon compliance with the operating instructions for that law, provided further the corporation can satisfy Customs officers involved that the antioxidant was off-specification at the time of importation.

The dissolving into solution of a crystaline substance and the recrystalization of that substance in a effort to render it marketable constitutes a manufacture or production for purposes of the drawback law, the fact that the operation failed somewhat in desired results notwithstanding. The corporation should notify the appropriate Customs Region of its intent to file for a claim for manufacturing drawback under Treasury Decision 81-234, the general contract for 19 U.S.C. 1313(a) drawback.

(C.S.D. 83-20)

This Decision Addresses the Effect of Extensions on Sureties in Those Circumstances Where the Sureties Involved Claim That Notification of Extension by the U.S. Customs Service, as Required by 19 U.S.C. 1504(b), Was Not Furnished

Date: December 20, 1982
File: ENT-1-01 CO:R:E:E
717690 M
718367 M

This ruling concerns the effect of the extensions of liquidations on sureties when the sureties involved claim that they were not given notification as required by regulations.

Issue(s): (1) Is an entry liquidated by operation of law in regard to a surety on that entry if Customs fails to send to that surety a notice of the extension of the liquidation of that entry, as required by Customs Regulations?

(2) May Customs rectify this failure to notify the surety by notifying the surety of the extension after the one-year period has expired?

(3) Is the evidence of the mailing of the notice of extension to the surety sufficient to meet the notice requirement for sureties under the Customs Regulations when a surety claims it did not receive such notice?

Facts: The District Directors of Customs at two major ports of entry have informed us that they have received at their respective ports numerous protests from sureties claiming that the notices of extensions required under the Customs Regulations were not received, or in those instances where received, were not timely forwarded to them.

Section 504, Tariff Act of 1930 (19 U.S.C. 1504), enacted by Public Law 95-410, which sets forth the statutory time limits for the liquidation of entries, applies to the entries or withdrawals of merchandise for consumption made on or after April 1, 1979.

Prior to June 26, 1981, notices of extension of liquidation, unlike the notices of suspension of liquidation, were not mailed by Customs to sureties. The reasons for this difference in treatment was because section 504 of the Tariff Act specifically lists the sureties as persons entitled to receive notices of suspension, but did not specifically list them as persons entitled to receive notices of extension. The Customs Regulations, as noted below, required that notices of extension be sent to the sureties.

A law firm who is representing one of the sureties on whose behalf it has filed protests regarding this matter and whose protests are being held at one of the ports of entry pending the outcome of this decision has submitted a detailed brief setting forth cogent arguments as to why the sureties are entitled to notices of extension.

The District Director at one of the ports of entry has attempted to rectify the failure to forward notices of extension prior to the extension of such liquidations by subsequently sending out such notices. In the examples which that port forwarded to us, such notices of extension were forwarded approximately a couple of months after the liquidation had been extended.

Protests have been filed by sureties at both ports for extensions of liquidations made on or after June 26, 1981, whereby the sureties contend that the notices of extension were not received by them. As noted above, it has been our practice from June 26, 1981, to forward notices of extension to the sureties and our records reflect that such notices were mailed. The sureties in these protests are objecting to our evidence regarding the mailing of such notices.

The law firm, referred to above, has pointed out the potential harm or injury which a surety company would suffer when Customs fails to follow its regulations by not notifying the surety of the extension of the liquidation of an entry, if it did not consider the failure as relieving the surety from the liability for payment of any increased duties, charges, etc. The law firm noted that there are only three types of information available to a surety company

to estimate its potential exposure, and all three are communic
tions issued by the U.S. Customs Service: Demands for Paymen
Notices of Suspension of Liquidation and Notices of Extension
Liquidation. Whenever such information is withheld or inaccurat
ly distributed, the surety company may be misled to its detrimen
A surety company, like any other business, must have a means
budget income and expenses so as to be certain that it has proper
and responsibly managed its cash flow and its profits (or losse
Based upon the periodic review of such notices in connection wi
pending entries and bonds, the surety is able to adjust its resourc
in relation to projected claims and liabilities, and conduct its bu
ness appropriately. If liquidation is extended, in accordance wi
the regulations, the surety would, upon receipt of a notice of exte
sion, review its risks, project its liabilities, and adjust its resourc
based upon the amount of the bond. Due to the lack of such notic
the surety was precluded from undertaking such meaningful anal
sis. Due to the absence of a notice of extension of liquidation advi
ing the surety that its obligation had been extended, the sure
was either precluded or impaired from taking the following actio
to protect itself:

(1) to seek additional security or collateral from the impor
er,
(2) to seek, when issuing new bonds, additional collateral
premiums,
(3) to exercise its subrogation rights,
(4) to project sufficient cash reserve to cover losses suffere
and
(5) to further insure itself against underwriting losses.

Law and analysis: Section 504(b), Tariff Act of 1930 (19 U.S.
1504(b)), provides in pertinent part, that Customs may extend t
period in which to liquidate an entry by giving notice of such e
tension to the consignee or his agent in such form and manner
described in the regulations. Section 159.12(b), Customs Regul
tions, provides that if the time for liquidation is extended, the d
trict director shall promptly notify the importer or the consign
and his agent and surety on Customs Form 4333-A, appropriate
notified, that the time has been extended and the reason for doi
so.

Although the statute (section 504 of the Tariff Act) does not l
the sureties as one of the persons required to receive notices of e
tension, it is very clear from the legislative history that it was Co
gress intent that the surety be so notified. On pages 32 of t
Report No. 95-778 of the Committee on Finance, United Sta
Senate, on H.R. 8149 (which for the most part became Public L
95-410), it was stated that: The provisions (section 504 of the Ta
Act) adopted by the committee would increase certainty in the c
toms process for importers, surety companies, and other third p
ties with a potential liability relating to a Customs transacti

Under the present law, an importer may learn years after goods have been imported and sold that additional duties are due, or may have deposited more money for estimated duties than are actually due but be unable to recover the excess for years as he awaits liquidation. "Surety companies, which are jointly liable with importers for additional duties, would be better able to control their liabilities. Sureties would also be better protected against losses resulting from the dissolution of their principles in instances where there has been undue delay in liquidating entries."

Similarly, on pages 25 of Report No. 85-621 of the Committee on Ways and Means, the House of Representatives, on H.R. 8149, it is indicated that by providing notices of suspension or extension of liquidations to sureties, they "can take appropriate measures upon receiving this notice to make sure that at least as to continuing activities, the risk of loss will be minimized."

Section 159.12(b), Customs Regulations, as it appears in both the initial proposed notice published in the Federal Register on November 29, 1978 (43 FR 55774) and in TD 79-221 published in the Federal Register on August 9, 1979 (44 FR 46794) required that sureties be provided with notices of extension. We believe that the Customs Regulations made this notice requirement mandatory because of the clear intent of Congress on this matter, as indicated by the above two cited Congressional reports.

Therefore, the failure by Customs to provide sureties with the required notices of extension for those entries extended before June 26, 1981, means that due to Customs failure to follow regulatory procedures, the surety is no longer liable for actions following the extension. Thus, such sureties would not be obligated to pay any increased duties assessed at the time the entry was liquidated.

This notices requirement under the statute and the Customs Regulations requires that the notice be given at the time the liquidation of the entries are extended. It is our view that the failure to give the sureties such notice at time of extension can not be rectified by giving notice to such sureties a couple of months later. The ability of the surety to control or minimize his liability which, as noted above, Customs attempted to accomplish through the notice requirement would be lost if Customs were able to satisfy such notice requirements by giving retroactive notices of extension to sureties.

As noted in the Facts, Customs has on and after June 26, 1981, routinely forwarded to sureties notices of extension. When an entry is filed with Customs, Customs transcribes into its computer pertinent information (such as the date of entry, entry number, ultimate consignee number, broker number, surety code, bond number, and importer of record number). When Customs determines it is necessary to extend the liquidation of an entry (either because more information is needed to appraise or classify the merchandise, or because the importer requested such extension and demonstrated "good cause"), Customs will transcribe this fact into the computer. Pursuant to this additional information, the computer will generate notices of extension to the importer, broker, and on June 26, 1981, and thereafter to the surety. Such notices are mailed by appropriate Customs personnel within one week after they are generated. We believe that an affidavit from one of Customs managers regarding this procedure would establish a strong presumption that such notices were mailed and would satisfy the notice of requirement set forth by section 504(b), Tariff Act of 1930 and section 159.12(b), Customs Regulations.

Holding: (1) Where Customs fails to properly notify a surety, in accordance with regulatory requirements, that sureties liability for payment of any increased duties, charges, etc. is discharged.

(2) In those instances where Customs failed to notify the surety of the extension, this failure to notify is not rectified by subsequent notification after the extension had already commenced.

(3) Where Customs computer indicated a notice of extension has been sent to the surety, Customs routine office practice of mailing such notices of extension within a week after such notices are generated is sufficient evidence of mailing the notice, even though a surety claims it did not receive such notice.

(C.S.D. 83-21)

This decision holds that, pursuant to section 101.1(b), Customs Regulations, nonprivileged foreign merchandise transfered from a Foreign Trade Zone to a warehouse may remain in that warehouse for a period not to exceed five years from the date of importation.

Date: August 12, 1981
File: FOR-1-CO:R:CD:D
213254 WL

Issue: The following issue has been presented: Merchandise admitted into a foreign-trade zone (FTZ) in nonprivileged foreign status and subsequently transferred to a Customs bonded warehouse falls within the scope of the five year time limitation set out in section 144.5 of the Customs Regulations for merchandise in bonded warehouses. Does the five year limitation commence as of the date of constructive transfer of the merchandise from the U.S. FTZ to the Customs bonded warehouse or from the date of initial admission into the FTZ?

Facts: A substantial amount of foreign products have recently been admitted into an FTZ in nonprivileged foreign status. It is ex pected that this merchandise will remain in the FTZ for some years as it is a substantial quantity. All or portions of this mer chandise will be transferred later to Customs bonded warehouse located in various parts of the United States for subsequent distri bution. Since it is anticipated that the merchandise will be trans erred to bonded warehouses in various Customs regions, a clear uling on the issue is desired.

The inquirer suggests that the five year limit for merchandise ransferred from an FTZ to a bonded warehouse should commence upon constructive transfer of the merchandise to the bonded warehouse, and notes the following passage from Headquarters letter FOR-1-R:CD:D S, 208455, dated February 8, 1978 (L.D. 3215-01):

> Section 146.48(c) permits the transfer of nonprivileged foreign merchandise from a zone to a Customs bonded warehouse. The merchandise is deemed to have been imported into the Customs territory at the time of its constructive transfer from the zone.

It is further suggested that since merchandise in an FTZ is not documented by the filing of a Customs Form (CF) 7502, Warehouse or Rewarehouse Entry, it would seem logical, for Customs document management purposes, that commencement of the five year warehouse period would occur at the time merchandise is constructively transferred from the FTZ and enters a bonded warehouse as documented on CF 7502.

Law and analysis: Section 557(a), Tariff Act of 1930, as amended (19 U.S.C. 1557(a)), relating to entry for warehouse, provides in part that "the total period of time for which such merchandise may remain in bonded warehouse *shall not exceed five years from the date of importation*". (Italic added.) See also section 144.5(a), Customs Regulations (19 CFR 144.5(a)).

An essential determination, then, is what constitutes an importation. The common dictionary definition of the word "import" is "to bring merchandise from a foreign country or state into one's own country or state; opposed to export". However, for Custom's purposes, an importation into the United States means not merely a bringing of goods within our jurisdiction limits but also a bringing of them into some port, harbor, or haven with an intent to land them there. *The Mary*, 16 Fed. Cases 932, 933. For our purposes then, an importation is complete when goods are brought within the limits of a port of entry with the intention of unloading them there. *Kidd v. Flagler*, 55 Fed. 367, 369, citing *United States v. Vowell*, 5 Cranch 368; *Kohne v. Ins. Co.*, 1 Wash. 138, 165; *United States v. Ten Thousand Cigars*, 2 Curt. 436, 437.

With respect to the intent of Congress when it enacted the Foreign Trade Zone Act, the Senate report on the Foreign-Trade Zones Act, dated April 26, 1934, made reference to the 1918 Tariff Commission report which stated that the purpose of an FTZ is:

> To encourage and expedite that part of a nation's foreign trade which its government wishes to free from the restrictions necessitated by Customs duties. In other words, it aims to foster the dealing in foreign goods that are imported, not for domestic consumption, but for reexport to foreign markets and

> for conditioning, or for combining with domestic products previous to export.

The 1918 report also described an FTZ in these terms:

> It is subject equally with adjacent regions to all the laws relating to public health vessel inspection, postal service, labor conditions, immigration, and indeed everything except the Customs.

Accordingly, merchandise brought into an FTZ from another country has been imported into the United States regardless of the fact that it may not be considered as being within the Customs territory. See also ORR Ruling 760067, December 22, 1975, copy attached.

While it appears that the Customs Service has not specificall ruled previously on when the warehouse period commences on nonprivileged foreign merchandise transferred from an FTZ to bonded warehouse, it has ruled that where merchandise is remove from an FTZ under a temporary admission under bond entry, th date of importation is the date defined by section 101.1(h), Custom Regulations (19 CFR 101.1(h)). See Legal Determination (L.D.) 79 0279, clarified by L.D. 81-0028.

In this connection, Headnote 1(a) to Schedule 8, Part 5C, Tari Schedules of the United States, provides in part that certain art cles may be admitted into the United States without payment duty, under bond for their exportation within one year *from th date of importation.* (Emphasis added.) Section 101.1(h), Custom Regulations, defines "date of importation" as, in the case of me chandise imported otherwise than by vessel, the date on which th merchandise arrives within the Customs territory of the Unite States. In the case of merchandise imported by vessel, it means th date on which the vessel arrives within the limits of a port in th United States with intent then and there to unlade such mercha dise.

In view of the express provision in section 557(a) Tariff Act 1930, as amended, that merchandise may not remain in a bond warehouse for more than five years from the date of importatio and the fact that merchandise in an FTZ is imported for Custon purposes, we conclude that, with respect to nonprivileged forei merchandise in an FTZ that is subsequently transferred from t FTZ and entered for warehouse, the five year limitation for stora in the warehouse commences upon importation of the merchandi into the United States as defined in section 101.1(h), Customs Reg lations.

Holding: When merchandise with nonprivileged foreign status transferred from an FTZ and entered for warehouse in a Custo bonded warehouse, the five year period that the merchandise m remain in the warehouse commences as of the date of importati as that date is defined in section 101.1(h), Customs Regulations.

does not commence as of the date of constructive transfer of the merchandise from the FTZ to the bonded warehouse or from the date of admission of the merchandise into the zone.

That portion of L.D. 3215-01 indicating that merchandise is deemed to have been imported into the Customs territory at the time of its constructive transfer from the zone is revoked.

(C.S.D. 83-22)

This decision (telex) holds that property belonging to the United States Government and military personnel engaged in official business and transported between points in the United States in a foreign-built, U.S.-flag vessel, are not merchandise or passengers for purposes of the coastwise laws (46 U.S.C. 883).

Date: October 14, 1981
File: VES-2/VES-3-08-CO:R:CD:C
105371 PH

Reurtelex October 14, 1981 (our ref 105371), quoting COMSC message 092346Z Oct 81 concerning cabotage waiver for foreign-built, U.S.-flag vessel (name). Vessel is under long-term time charter to military sealift command. Vessel is to be used in military exercise involving transportation of Government owned military vehicles from Savannah, Georgia, to Pensacola, Florida, commencing October 15, 1981. Cargo is stated to require attendance of approximately eight active duty military personnel as "super-cargo".

Coastwise laws, in part, prohibit transportation of merchandise or passengers between points in U.S. in foreign-built vessel, with certain exceptions not here relevant (see 46 U.S.C. 11, 289, 883). Thus, (name) may not transport merchandise or passengers in coastwise trade. However, per ruling letters VES-2-R:CD:C 103723 CH, January 3 and 10, 1979, property

(Page Two of Telex)

Belonging U.S. Government is not "merchandise" within meaning of 46 U.S.C. 883 (see also 26 O.A.G. 415, 425). "Passengers", for purposes of coastwise laws, include "any person carried on a vessel who is not connected with the operation of such vessel, her navigation, ownership, or business" (see 19 CFR 4.50(B)). Eight active duty military personnel are connected with business of vessel, assuming they are to guard or supervise transportation of government owned military vehicles.

Accordingly, proposed transportation will not violate coastwise laws and no waiver is necessary.

(C.S.D. 83-23)

This decision holds that, pursuant to 19 U.S.C. 1313(j), accidental destruction or damage to merchandise after importation renders the damaged or destroyed merchandise ineligible for same condition drawback.

Date: July 15, 1982
File: DRA-1-09:CO:R:CD:D
214672 B

Re: Your letter of July 8, 1982—Same Condition Drawback—
Accidental Destruction or Damage after Importation

Dear (name)

In your letter you refer to our September 23, 1981, letter to the National Committee on International Trade Documentation wherein we stated that accidental destruction or damage after importation made the article or merchandise damaged or destroyed ineligible for same condition drawback.

You have a client who imported a machine which was damaged in a trailer-truck accident after entry and release by Customs. You feel that your client should not be denied the opportunity to claim and collect a same condition drawback refund.

The law as written and the intent of the Congress in passing the law are very clear. Something that is damaged after importation cannot be said to be in the same condition as when imported. As for complete destruction, if the happenstance occurs without Customs supervision, same condition drawback may not be had because the law specifically requires that to obtain a refund the article or merchandise must be destroyed under Customs supervision while in the same condition as imported.

Accidental destruction and accidental damage must be treated in the same manner as accidental use of an imported article for its intended purpose, which also negates the benefits of the law. Should a coat salesman accidentally wear one of his samples to a social outing the coat has nevertheless been used for its intended purpose. Likewise, should another sample be damaged during cleaning, the coat is no less damaged and not in the same condition as imported.

Any loss of a same condition drawback refund due to damage after importation in situations outlined by you is a civil matter between the involved parties.

We trust the foregoing clarifies our position.

(C.S.D. 83-24)

This decision holds that, under section 402(b), Tariff Act of 1930, as amended by the Trade Agreements Act of 1979, transaction value may not be derived from the original contract price for imported goods once the purported buyer has renounced the contract.

Date: August 27, 1982
File: CLA-2 CO:R:CV:V
542895 CW
TAA #51

To: Area Director of Customs, New York Seaport 10048.

om: Director, Classification and Value Division, Headquarters.

bject: Internal Advice Request No. 134/82: Effect on Appraisement of Refusal of Original Buyer to Pay for Imported Merchandise.

This is in reference to your memorandum of July 27, 1982, ceived in this office on August 5, 1982, which forwarded the bject request filed by (NAME AND OWNER OF COMPANY) e foreign producer of the merchandise in question (boy's ans). The issue presented for consideration concerns whether ansaction value under section 402(b), Tariff Act of 1930, as mended by the Trade Agreements Act of 1979 (TAA), may roperly be derived from the original contract price for the imorted merchandise, even though subsequent to importation of e goods the supposed purchaser refused to accept or pay for e merchandise.

(Name) (hereinafter referred to as "owner") states in a letter, ated June 28, 1982 that the original customer agreed to pay is company $32.00 per dozen pairs of boys' jeans. However, nce the shipment arrived in the United States, the customer, r various reasons, refused to accept and pay for the merchanise. The owner advises that he has located a new buyer for he merchandise who has agreed to pay $16.00 per dozen, plus he Customs duties based on that purchase price. According to he owner, if Customs ultimately decides that $32.00 per dozen the appraised value of the jeans, the new buyer would refuse pay duties based on that amount and, therefore, there would e no sale. For this reason, the owner requests that Customs etermine that the appraised value of the merchandise is 16.00 per dozen.

In the opinion of your office, transaction value is represented y the original contract price of $32.00 per dozen since that mount was "the total payment to be made by the buyer to the eller when the merchandise was contracted for sale for exporation to the United States."

As you know, transaction value is defined in section 402(b) as the price actually paid or payable for the merchandise when *old* for exportation to the United States, plus amounts . . ." r certain items not already included in that price (emphasis dded). Thus, the "price actually paid or payable" must be deived from an actual sale. The word "sale" generally is defined y the courts as a transfer of ownership in property from one arty to another for a price or other consideration. See *J. L. Vood v. United States*, 62 CCPA 25, C.A.D. 1139 (1974), and *J. I. Cottman & Co. v. United States*, 20 CCPA 344, T.D. 46114 1932).

In the factual situation under consideration, it is clear that he original customer and the foreign producer entered into an greement to purchase a quantity of boys' jeans for $32.00 per lozen. However, it is also clear from this customer's subseuent refusal to pay the agreed upon price that there was ever a transfer of ownership in the merchandise to that customer. Consequently, no sale was consummated between the parties at the $32.00 per dozen price. Moreover, as there was no other price at which the merchandise was "sold for exportation to the United States," transaction value is eliminated as the basis of appraisement for the imported jeans.

The next in order of precedence of the bases of valuation under the TAA is the previously-accepted transaction value of identical merchandise exported to the United States at or about the same time as the instant merchandise. If identical merchandise cannot be found or an acceptable transaction value for such merchandise does not exist, then the applicable Customs value is the previously-accepted transaction value of similar merchandise exported to the United States at or about the same time as the goods being valued. We are unable to ascertain from the information provided to us whether the transaction value of identical or similar merchandise under section 402(c) can be satisfactorily determined in this case.

If your office determines that the imported merchandise cannot be appraised on the basis of transaction value of identical or similar merchandise, and if the shipment is sold in the United States to the second customer at $16.00 per dozen, we believe that this price can serve as the basis from which to determine the third alternative basis of appraisement, deductive value under section 402(d). This, of course, assumes that the importer does not elect to have the computed value method of appraisement applied before the deductive value method.

(C.S.D. 83-25)

This decision addresses the dutiable status, under item 696.10, Tariff Schedules of the United States, of a yacht imported into the United States to be sold and refundable duty under 19 U.S.C. 1313(j) if exported unsold.

Date: September 16, 1982
File: VES-12-02-CO:R:CD:C
105792 JL

Dear (Name)

This is in reference to your letter of August 18, 1982, in which you ask certain questions concerning a 32 foot yacht you intend to sail to the United States and sell, specifically in either Hawaii or California.

Customs duties on a yacht brought into the United States for sale to a U.S. resident are computed at 4.6% of its value if it is valued over $15,000, as you indicate yours is. When a yacht is brought into the U.S. it is subject to entry and payment of duty immediately upon being offered for sale. If offered for sale prior to being brought in, entry and payment of duty is required upon its arrival. The fact that the yacht is not subsequently sold would not affect its dutiability. The tariff number that the yacht would be entered under is item 696.10, TSUS (Tariff Schedules of the United States).

Notwithstanding the above, if your yacht is brought into the U.S. but offered for sale only to non-residents (under a restricted listing), then no duty liability will accrue. You should also be aware that a yacht brought into this country for sale (or charter) generally, and subsequently sold to a non-resident would nevertheless be dutiable by virtue of its having been so offered.

If duty is paid and the yacht is not sold, you may be able to recover 99% of the amount paid *provided* the yacht is exported within 3 years of its importation, is exported in the same condition as when imported, and is not used in this country before its exportation. Destruction of the yacht (under U.S. Customs supervision) will satisfy the exportation requirement. This is accomplished under the "same condition drawback law" (19 U.S.C. 1313(j)).

The above addresses the Customs duties that would be applicable to your yacht if brought in for sale. What sales taxes, if any, that would be payable would be levied by the individual states and you should write directly to the sales tax offices in Hawaii and California for that information.

We are enclosing for your information a copy of a pamphlet entitled "Pleasure Boats," which should be of some aid to you.

(C.S.D. 83-26)

This document provides that if deterioration occurs which signifi- antly changes the condition of importer merchandise after impor- ation, same condition drawback law would be rendered inapplica- le.

Date: September 23, 1981
File: DRA-1 09-CO:R:CL:D
213093 B

This is in reply to your letter of May 27, 1981, concerning the same condition drawback law, 19 U.S.C. 1313(j), setting forth issues which you feel should be resolved relative to the operation of that statute.

We are replying in order to the issues you raised:

Application Prior to Export

In a ruling (file 212709) dated March 26, 1981, published as Legal Determination 81-0126, we held that the exporters' summary procedure, currently covered by section 22.7(d) of the regulations, could be used by claimants under same condition drawback upon approval by the Regional Commissioner. Use of this procedure obviates the necessities of presentation for examination and exportation under Customs supervision. There is no legal impediment to its use in same condition drawback claims.

Documentation

We agree that the requirements of inclusion of the import entry in the same condition drawback "package" may be burdensome when the claimant is not the importer of record. Same condition drawback claimants in many cases will not be the importer of record, and since these claimants are not entitled to access to the consumption entry, we have informed other inquirers that for identification purposes, use of a Certificate of Delivery, CF 7543, provided by the importer, would be proper. The CF 7543 will identify the consumption entry. We do not believe it would be proper to allow "other documentation" to establish identification because the CF 7543 is required for manufacturing drawback to trace and identify the imported merchandise. As for documentation to prove entry and payment of duty, the best evidence is the entry itself.

Accelerated Payment

We have notified the Regional Commissioners that same condition drawback claimants should be allowed to participate in the accelerated payment program. Please see the enclosed copy of T.D. 81-242 to this effect.

Identity of Merchandise

We have given recognition to identification of imported fungible merchandise by the FIFO accounting method. Note from the enclosed ruling of September 2, 1981 (file 213253) the low-to-high method heretofore required by section 22.4(f) of the regulations in direct identification manufacturing drawback claims has been waived. Because 22.4(f) also applies to same condition drawback merchandise, that waiver and allowance of use of the FIFO principle also applies to same condition drawback merchandise. The proposed drawback regulations, 19 CFR Part 191, reflect the new position.

Deterioration and Damage

It is evident from the wording of the same condition drawback statute and its legislative history that in order for merchandise to be subject to same condition drawback, the merchandise must be destroyed *under Customs supervision* or exported in the same condition as imported, with the exception of some change due to allowable incidental operations.

If deterioration occurs to the extent the condition of the imported goods is significantly changed, it cannot be said these goods are in the same condition as imported. Likewise, if merchandise is destroyed accidentally or otherwise without supervision of Customs, allowance of drawback would contravene the express language of the statute.

Accidental destruction of imported merchandise should and would be treated no differently than the accidental subjection of the merchandise to a use proscribed by the statute.

We trust the foregoing information suffices to present our position on the subjects you raised.

(C.S.D. 83-27)

This letter states that tolbutamide should be classified under item 412.68, TSUS.

Date: September 30, 1982
File: CLA-2 CO:R:CV:G
070554 JH

In your letter of September 13, 1982, you note that tolbutamide may be added to list of articles eligible for duty-free treatment under the Generalized System of Preferences, and state that there is a question concerning its correct tariff classification.

In this regard, you submitted a letter from the International Trade Commission (ITC) in which the opinion is expressed that tolbutamide is neither an anti-infective sulfonamide classifiable in item 411.84, TSUS, as claimed by the petitioner government, Romania, nor classified in item 412.68, TSUS, the basket category for other products suitable for medicinal use and drugs, as contended by the Customs Service.

The ITC states that tolbutamide is a synthetic hypoglycemic agent used in the treatment of certain cases of diabetes. They therefore feel that it is a substitute for the hormone insulin and is classifiable within the group of drugs covered by the superior heading "Hormones, synthetic substitutes, and antagonists": specifically item 412.48, TSUS, the CAS basket provision. They base this decision on Headnote 11, Part 1(C), Schedule 4, which states that any product described in two or more items under item 411.30 to 412.70, inclusive, is to be classified in the first applicable item. It is their opinion that item 412.48 is that first applicable item, as tolbutamide is a synthetic substitute for insulin.

We disagree. Information furnished by our Technical Services Division is that tolbutamide is an orally effective hypoglycemic agent useful in the management of selective cases of *diabetes mellitus*. It is related chemically to the antibacterial sulfonamides but possesses no antibacterial activity itself. The primary mechanism by which tolbutamide lowers blood sugar levels appears to be by stimulating the secretion of insulin (a hormone) from the beta cells of the pancereatic islets of Langerhans. It is ineffective in the absence of functioning beta cells.

Since the drug possesses no antiinfective properties, classification under item 411.84 is not appropriate. It is also apparent from its mode of action that tolbutamide is not itself a hormone, nor can it be substituted for a hormone as a "synthetic substitute". It has an effect on certain cells of the pancreas where it induces the release of the hormone insulin. Thus, it functions as a releasing agent. Moreover, tolbutamide is not an antagonist to insulin activity or of any other known hormonal action. Accordingly, it would not be classified in item 412.48, TSUS.

Therefore, since it is not more specifically described in any other provision of the tariff, tolbutamide would classifiable under the provision for other drugs or products suitable for medicinal use in item 412.68, TSUS, a product provided for in the CAS appendix to the tariff schedules.

(C.S.D. 83-28)

This decision holds that, pursuant to section 22.20(a), Customs Regulations, accelerated drawback claimants, after having established a drawback value for certain articles, may use that value for future claims for the same articles.

Date: October 1, 1982
File: DRA-1-09-CO:R:CD:D
214499 B

Issue: When the drawback payable on an article has been established by a prior drawback claim, may claimant compute future claims for accelerated payment on that article by providing the quantity of the article exported, the drawback payable per unit of the article as shown by the prior claim, the total amount of drawback payable, and the import entry number for the designated merchandise?

Facts: A claimant under accelerated payment computes drawback due by determining the amount of drawback per unit, multiplying that amount by the number of units exported, and then claiming 90 percent of that estimated amount. The region asks if this method meets the standard of the "computation of the amount due" as required by section 22.20a of the regulations.

Law and analysis: Section 22.20a, Customs Regulations, provides in pertinent part:

> * * * A claimant, requesting accelerated payment of a claim, shall submit with the claim *a computation of the amount due thereon* * * *.

The question is what is intended by the word *computation.* Because a bond is required to operate under the accelerated program, there is no threat to the revenue should the figures submitted to a region be incorrect. Also a claimant who repeatedly overcomputes his drawback must, in accordance with the regulations, be removed from the accelerated payment program.

The alternative to using the method favored by claimant would be to supply the import entry number for the designated merchandise, the entered value, the rate of duty, and the duty paid. Claimant objects to this alternative because, when it applies for accelerated payment, it usually does not have this information and, not being the importer, is not entitled to it. When claimant has the import entries it generally does not consider that accelerated payment is worth the extra expense of obtaining surety on a bond.

The computation provided by a claimant under accelerated payment is not meant to be a final liquidation of the claim. To require a computation that would be as precise as the final liquidation of the drawback claim would defeat the purpose of the accelerated payment program, which was instituted because Customs could not always liquidate claims expeditiously. In addition since the entered value is not always the final liquidated value, the alternative method is not necessarily more precise than claimant's method.

Holding: When the drawback payable on an article has been established by a prior drawback claim, claimant may compute future claims for accelerated payment on that article by providing the quantity of the article exported, the drawback payable per unit of the article as shown by the prior claim, the total amount of drawback payable, and the import entry number for the designated merchandise.

(C.S.D. 83-29)

This decision holds that, pursuant to the same condition drawback law, section 201 of Public Law 96-609, 19 U.S.C. 1313(j), merchandise imported prior to December 28, 1980 but not entered until that date or thereafter is eligible for same condition drawback upon compliance with the law and operating instructions

Date: October 5, 1982
File: DRA-1-09-CO:R CD:D
215089 B

To: Director, Classification and Value Division, Miami, Florida 33131.

From: Director, Carriers, Drawback and Bonds Division, Service Headquarters.

Subject: Your Request for Internal Advice DRA-1-O:C L AJM of May 12, 1982—Same Condition Drawback 19 U.S.C. 1313(j)—Time of Entry.

The same condition drawback law, Section 201 of Public Law 96-609, 19 U.S.C. 1313(j), allows drawback on merchandise which is exported or destroyed under Customs supervision within three years of *importation* in the same condition as imported. However, the law specifically states it shall be applicable to all merchandise *entered* or withdrawn from warehouse for consumption on or after December 28, 1980.

You have a situation where merchandise was imported on December 10, 1980, and the entry is dated January 7, 1981, and you ask what is the "entered" date for purposes of the law. Two entries are submitted for our comment.

In example one (entry number) the merchandise was released prior to the filing of the CF 7501 entry summary. The commercial invoice submitted to Customs has a Customs release stamp reflecting that delivery was authorized for such merchandise on January 7, 1981. The entry summary was filed with Customs on January 20, 1981.

In example two (entry number) the carrier's certificate and release order contained a Customs release stamp showing that delivery of the merchandise was authorized on January 6, 1981. The entry summary was filed on January 14, 1981.

Section 141.68(a), Customs Regulations, provides that as a general rule when merchandise is released under entry documentation, such as Customs Form 3461, 7533, or other appropriate documentation used to secure the release of the merchandise prior to the filing of the entry summary, the date Customs authorizes the release of such merchandise is the date of entry. The importer has the option of requesting on the entry document (Customs Form 3461, etc.) that the date of the presentation of the entry document or, if the entry document is presented prior to the arrival of the merchandise, the date of arrival be considered the date of entry. Under such circumstances, those earlier dates rather than the date the merchandise was authorized for release from Customs would be considered the date of entry.

Since there is no indication from the information submitted that the importer requested the date of presentation or the date of arrival of the merchandise as the date of entry, we must presume that no such request was made and thus the date of release is the date of entry. In the two examples given, January 7, 1981, would be the date of entry for example one, whereas January 6, 1981, woul be the date of entry in example two.

Therefore, it appears that the merchandise covered by both en tries qualifies for same condition drawback provided there is timel exportation and the required operating instructions are met. W note that the affidavit for the same condition drawback entry co ering (number) refers to (number).

(C.S.D 83-30)

This ruling holds that the use of "foreign-first" accounting in zone is acceptable in principle. However, its acceptability in eration will be determined on a case-by-case basis

Date: October 7, 198
File: For-1-CO:R:CD:
215061 R

Issue: Whether "foreign-first" accounting is an accepta method in principle for purposes of identifying fungible (comm cially identical) merchandise commingled in a foreign-trade zone

Facts: None presented.

Law and analysis: Customs attempts to accommodate reasonable requests from the importing public which serve to promote American commerce, both import and export, when no potential exists thereby for evasion of Customs laws and regulations.

Neither the Foreign-Trade Zone Act (FTZA), as amended, 19 U.S.C. 81a-u, nor the implementing Customs Regulations, 19 CFR Part. 146, prohibits in principle the use of "foreign-first" accounting in a foreign-trade zone (FTZ). However, in order to be acceptable in any specific case, it must be consistently applied and cannot be employed in such a manner as to evade Customs and any related laws and regulations. Accordingly, its acceptability in operation will be determined on a case-by-case basis pursuant to the foregoing criteria.

An FTZ user may adopt "foreign-first" accounting as its initial method in a zone to identify its merchandise, without first obtaining Customs permission to do so. However, if an FTZ user presently employs "foreign-first" accounting in a zone to identify its merchandise or if it employs another accounting method in a zone for this purpose and it desires to change either from or to "foreign-first" accounting in the zone, permission to do so must first be obtained from Customs.

At times the use of "foreign-first" accounting may facilitate recordkeeping procedures in a zone and accordingly further stimulate American business and labor by permitting the conduct of any lawful activity in a zone, including manufacturing for export, under minimum cost conditions, which is an underlying purpose of the FTZA (note S. Rept. No. 1107 dated September 26, 1949, 1950 U.S. Code Cong. and Admin. News, 2533, at 2534).

To illustrate the use of this method, if 100 domestic units and 100 foreign units are commingled in a zone, the first 100 units which are subsequently withdrawn therefrom would be identified as the foreign units.

Holding: The use of "foreign-first" accounting in a zone is acceptable in principle. However, its acceptability in operation will be determined on a case-by-case basis.

(C.S.D. 83-31)

This ruling holds that a custom integrated circuit (chip) furnished to the foreign assembler free of charge is an assist, since acquired from an unrelated seller, its value is the cost of acquisition, including U.S. development and design costs

Date: November 29, 1982
File: CLA-2 CO:R:CV:V
542948 BS
TAA #55

Re: Dutiable Status of "Chip" Used in Stereo Receiver.

This is in reference to your letter dated October 20, 1982, concerning the dutiable status of a customs integrated circuit ("chip") used in the assembly of an AM/FM stereo receiver.

Pursuant to the described facts (and to your conversations with Mr. Schlissel of my staff), the chip will be designed in New York, fabricated in initial condition in either Arizona or Scotland, and thereafter completed in Taiwan, for delivery to the Taiwan assembler for assembly in the finished product. The designer-fabricator of the chip will be "G", a U.S. company unrelated to the importer. Separate payments will be made to "G" for the engineering development work, and for the material and fabrication of the chip.

In your opinion, the engineering development cost for the chip is not part of the dutiable value of the imported stereo receiver. You believe that this development cost does not fall within the statutory definition of an assist and therefore is not dutiable.

Section 402(h)(1)(A) of the Trade Agreements Act of 1979 provides in general that the term "assist" means certain enumerated items, if supplied free of charge or at reduced cost, by the buyer of imported merchandise for use in connection with the production or the sale for exportation to the United States of the merchandise. Included among the enumerated categories are—

> "(i) Materials, components, parts, and similar items included in the imported merchandise.
>
> "(iv) Engineering, development, artwork, design work and plans and sketches that are undertaken elsewhere than in the United States and are necessary for the production of the imported merchandise."

Thus, under subparagraph (iv), only foreign engineering, development, artwork, etc., if supplied free of charge or at reduced cost by the buyer, will be considered an assist. Conversely, that same work undertaken within the United States is not an assist.

However, in the subject transactions, the U.S. engineering and development will not be provided in that form to the foreign seller. Rather, what is being provided to the seller/assembler is the chip embodying the engineering development. Whether fabricated in the United States or elsewhere, that chip clearly falls within subparagraph (A)(i), *i.e.*, "Materials, components, parts * * * included in the imported merchandise." Therefore, it is an assist.

It seems, however, that you may not be contesting the determination that the chip is an assist; rather, it appears you believe tha the value of the assist should not include the engineering and development costs.

Section 152.103(b)(1), Customs Regulations, provides in part that if the assist consists of materials, components, parts, or similar items incorporated in the imported merchandise, acquired by the buyer from an unrelated seller, the value of the assist is its cost of acquisition. This provision makes no exclusion for U.S. based engineering, development, etc., that may have been incurred by the unrelated seller.

In the instant case, the importer will pay "G" a total sum for the chip, consisting of the engineering development charges for the software and an additional sum for the materials and fabrication. The total cost of acquisition to the importer is the sum of these two parts. This sum is the value of the assist.

Under the circumstances, we hold that the "chip" is an assist within the meaning of section 402(h)(1)(A)(i). The value of the assist is its full cost of acquisition from "G," which includes research and development costs incurred in producing the chip.

(C.S.D. 83-32)

This ruling establishes guidelines for acceptable certification of actual use for articles entered under item 870.40 or 870.45, Tariff Schedules of the United States

Date: November 29, 1982
File: CLA-2 CO:R:CV:G
069623 JLV

Re: Guidelines for Determining the Acceptability of Certificates of Actual Use Submitted for Entries Made Under Items 870.40 and 870.45

In order to provide uniformity in the requirements for acceptance of actual use certification for entries under item 870.40 and 870.45, Tariff Schedules of the United States (TSUS), specific guidelines have been established. These guidelines are issued in response to a request for advice from the District Director, Pembina, dated November 4, 1981.

The scope of item 870.40, is limited by Headnote 2 (Schedule 8, Part 7) and by the intent of Congress to those articles which are described in 666.00, but are not classifiable thereunder because they are not chiefly used in agricultural and horticultural pursuits or are provided for under a more specific tariff provision. Therefore, the scope of item 870.40 is controlled by the headnote exceptions and the various judicial, administrative, and legislative decisions affecting item 666.00. Actual use, in this case, requires use by an individual for agricultural or horticultural purposes.

The scope of 870.45 is somewhat different. It provides for parts of articles *provided for* in item 666.00. The term "provided for" is more narrowly construed than the term "described" and refers to articles classifiable in item 666.00. Furthermore, parts imported under 870.45 need only be certified as to actual use in 666.00 articles. Actual use in agricultural or horticultural pursuits is not the controlling issue in 870.45 certification. Actual use, in this case, requires only that the imported parts be used in articles classifiable in item 666.00, whether or not the articles are used in agricultural or horticultural pursuits.

The certification requirements for items 870.40 and 870.45 are to be reasonably tied to the circumstances of each case. Factors to be considered include the nature of an imported article, level of distribution, value and size of an importation. All of these elements and other relevant factors must be considered. In many cases the nature of an article as a replacement part for agricultural equipment will be apparent. For example, articles that are specially designed or have a designated part number can be reasonably identified to be destined for use on a specific article which is provided for in item 666.00. Furthermore, importation and distribution to factory-authorized parts dealers is reasonable evidence that the components will be used in the equipment for which they are designated. If the imported parts have more than a fugitive application to equipment other than agricultural equipment, then the level of distribution could narrow the extent of the claim for 870.45 treatment. Other factors considered relevant by the Customs officer at the port of entry may be used to consider whether an importer would have sufficient knowledge of actual-use without obtaining separate statements from the individual users. This illustration is but one example of how factors are to be considered as relevant for an entry under item 870.45, in which an importer certifies as to actual use.

The burden of satisfying the actual-use certification requirement is on the importer. The importer is, for Customs audit purposes, the only one who can be directly audited on an entry. Therefore, the certifications submitted for each entry must be substantiated by evidence of use acceptable to Customs and verifiable from the importer's records or the records of a certifying person which are available to Customs through the importer. However, in some cases, such as those involving certain types of replacement parts, there will be sufficient evidence of "knowledge" on the part of the importer or certifier that will be acceptable even though the parts have not been actually traced to each end user. Furthermore, Customs will only accept an entry for the percentage of articles which can be reasonably shown by the importer to be destined for use within the meaning of 870.40 and 870.45.

Because the importer remains liable at all times, it is important that the importer be aware of the claims being made on the certifiate of actual-use. If an importer is in doubt, he should request a uling from Headquarters. For example, a replacement part may e imported for a piece of farm equipment which is not provided or in item 666.00. In such case item 870.45 would not apply.

With these considerations in mind, the following guidelines hould be used as the basis for acceptance of certification of actual-se:

Item 870.40

1. Certification of actual-use may be accepted at the time of importation for an entry of articles imported under item 870.40 if the articles are the subject of an existing contract of sale to an appropriate end-user. The importer-seller may certify actual-use to Customs on this basis.

2. Some articles described in item 666.00 are not so classifiable because there is a more specific provision. These articles may be shown to be of a kind solely used for agricultural or horticultural purposes because of size, construction, capacity, type of distribution (if any), and type of market in the area of distribution. Any other use would be fugitive. Upon submission of evidence as to the use of these articles (*i.e.*, silos, grain bins, heaters), an importer may submit certification of actual-use after all such imported articles are sold, whether to end-users or to others who distribute to appropriate end-users.

3. Multi-purpose articles entered under item 870.40 require that an importer certify or obtain a certificate which will indicate knowledge of the actual-use or of the individual end-user for each item. Such articles, for example, would include land leveling equipment, nonagricultural scrapers, general purpose steel buildings, and other equipment which can be used for agricultural or horticultural purposes.

Item 870.45

4. Certification of actual-use is accepted from importers and manufacturers of 666.00 equipment after the imported parts are used in the assembly or manufacture of 666.00 equipment. The certifying party must be able to show that the imported articles were shipped to the manufacturer's plant, were entered into its inventory, and were withdrawn for production purposes. Acceptable FIFO accounting procedures are sufficient to identify use of the imported articles.

5. Replacement parts for 666.00 equipment may be certified as to actual-use by an importer if he submits evidence that a) the parts are specially designed for the 666.00 equipment and other uses are merely fugitive, b) and the parts have been sold by the importer to other distributors of the replacement parts or to actual end-users. Certification of actual-use may be made at entry if the parts are the subject of an existing contract of sale by the importer to such distributors or users.

6. Replacement parts which have possible application to equipment not provided for in item 666.00 may be certified as

to actual-use by an importer if he submits evidence that a) the imported parts are identified by a replacement part number or catalogue for specific application to 666.00 equipment, and b) have been sold to factory-authorized or similar retail or wholesale distributors of replacement parts for the specific 666.00 equipment.

7. Certification of actual-use for replacement parts which have application to multiple types of equipment and machinery would normally be acceptable from an importer only if the importer has knowledge of each end-user or if the importer can submit statements of use from each end-user. If, however, an importer can identify a distributor, to whom all or part of the imported articles are sold, as one who sells only replacement or repair parts for 666.00 equipment, then certification would be acceptable.

These guidelines permit certification of actual-use by an importer for many situations before the imported articles reach the end-users. This position is based on two primary determinations. First, evidence of a sale to an appropriate end-user or distributor is sufficient evidence of actual-use even though the articles have not yet been delivered. The articles have been entered into the chain of commerce which will result in the required end-use. Second, certain practical considerations are necessary to make items 870.40 and 870.45 economically viable preferential provisions intended by Congress. Evidence of the nature of the articles, method of distribution, and other commercial data will be sufficient in most cases to permit certification of actual-use at the time the articles are entered into the commercial channels which lead to the desired end-use. If an importer cannot demonstrate that the normal course of trade for the articles in question will result in the intended actual-use as required by item 870.40 or 870.45, then the importer will have to trace the articles further along the distribution route before certification of actual-use can be made.

These guidelines do not propose to cover all situations. Not every article intended for agricultural or horticultural purposes will necessarily be given duty-free treatment. Congress has even stated that despite the overriding intent to provide duty-free treatment for agricultural articles, some articles will not be included. However, these guidelines are intended to give effect to the intent o 870.40 and 870.45 by reducing the economic and administrativ burden on both importers and the Customs Service.

Attachment A to this letter gives background information whic further explains the reasons for issuing the guidelines. Attachmen B is a sample format for a certificate of actual-use.

(November 29, 1982)

ATTACHMENT A.—BACKGROUND INFORMATION

The Trade Agreements Act of 1979, Public Law 96-39, July 26, 1979, enacted two new classification provisions applicable to certain machinery, equipment, implements, and parts:

870.40 Machinery, equipment, and implements to be used for agricultural or horticultural purposes.

870.45 Parts to be used in articles provided for in items 666.00, whether or not such parts are chiefly used as parts of such articles and whether or not covered by a specific provision within the meaning of General Interpretive Rule 10(ij)

These provisions are actual-use provisions within the meaning of General Headnote and Interpretive Rule 10(e)(ii), TSUS, which states:

> (e) In the absence of special language or context which otherwise requires—
>
> * * * * * * *
>
> (ii) A tariff classification controlled by the actual-use to which an imported article is put in the United States is satisfied only if such use is intended at the time of importation, the article is so used, and proof thereof is furnished within 3 years after date the article is entered; * * *

Since the effective date for items 870.40 and 870.45, TSUS, there has been a growing concern over what will constitute sufficient proof as to actual use of articles imported under these provisions. The Customs Regulations at sections 10.131 to 10.139 (19 CFR 10.131-10.139) govern the actual-use provision. Section 10.137 requires the importer to keep accurate and detailed records showing the use or other disposition of imported merchandise for which a claim of actual-use is made. Section 10.138 addresses that proof of use and states:

§ 10.138 **Proof of Use**

> Within 3 years from the date of entry or withdrawal from warehouse for consumption, the importer shall submit in duplicate in support of his claim for free entry or for a reduced rate of duty a certificate executed by (1) the superintendent or manager of the manufacturing plant, or (2) the individual end-user or other person having knowledge of the actual use of the imported article. The certificate shall include a description of the processing in sufficient detail to show that the use contemplated by the law has actually taken place. A blanket certificate covering all purchases of a given type of merchandise from a particular importer during a given period, or all such purchases with specified exceptions, may be accepted for this purpose, provided the importer shall furnish a statement showing in detail, in such manner as to be readily identified with each

READEX FICHE pages tightly bound

> entry, the merchandise which he sold to such manufacturer or end-user during such period.

There are several key considerations expressed by the Congress. First, there was the concern that the new tariff provisions would create a tariff loophole, and would erode the specific provisions of the Tariff Schedules by inadequate administration of the end-use test. To this extent, the Congress indicated that Customs should review its regulations. There was also the implication that actual-use certificate forms would be obtained from Customs at the time of entry.

Notwithstanding these concerns expressed by the Congressional committees, the purpose of the enacted legislation was to favor importations of articles to be used in agricultural or horticultural pursuits. This interest is not new. The courts have recognized and consistently construed duty-free provisions for agricultural articles in a broad and liberal manner in order to give effect to intent of Congress to favor agriculture.

Items 870.40 and 870.45, TSUS, present actual use situations that do not always fit within what may be called the "standard" actual-use situation. Actual-use provisions were intentionally limited in number when the current Tariff Schedules were drafted. The actual-use provisions included in the Tariff Schedules usually provide for articles which are to be used by a limited number of processors or manufacturers rather than by a large number of end-users. Examples of actual-use provisions in the Tariff Schedules prior to items 870.40 and 870.45 are as follows.

1. 110.47: Frozen meat, skinned and boned, in 10 pound blocks to be minced, ground, or cut into uniform pieces.
2. 131.37: Patna, cleaned, for use in manufacture of canned soups.
3. 155.40: Certain sugars for use other than for commercial extraction of sugar or for human consumption.
4. 176.44: Rapeseed oil, rendered unfit for food, to be used in making rubber substitutes or lubricating oil.
5. 176.46: Other rapeseed oil to be used in making rubber substitutes or lubricating oil.
6. 184.58: Wheat gluten to be used as animal feed.
7. 250.04: Flax and hemp fibers to be used in papermaking.
8. 306.00: Certain wools entered by a dealer, manufacturer, or processor for certain named uses.

The burden placed on an importer of replacement parts for articles classified in item 666.00, however, is often economically and administratively infeasible. For example, a shipment of 1,000 replacement hydraulic cylinders for use on certain plows and other farm equipment would theoretically require an importer to obtain statements from 1,000 individual end-users before certification of actual-use would be acceptable. More often that not, the cylinders will be sold through one or more levels of distribution before reaching an end-user. Because of this, some importers have either decided not to claim 870.45 or have failed to get statements from the end-user.

Competing interests do exist. On the ond hand, there is the interest which requires Customs to insure that the duty-free benefits are given to those engaged in agricultural or horticultural pursuits:

> The committee is concerned that the adoption of the "end-use" test with respect to parts of agricultural and horticultural machinery, equipment, and implements will not again result in the erosion of specific provisions of the tariff schedules by inadequate administration of the chief use provision in classifying such parts for duty purposes. * * * It believes that the Customs Service should review its regulations with regard to the end-use test in order to prevent importers from establishing a practice of classifying parts for end-use purposes where the duty-free treatment of such parts is not warranted by the facts. Moreover, Congress intends that the two departures from the "chief use" test and from the provisions of Rule 10(ij) not be interpreted by the Customs Service as an indication that the Congress is agreeing to permit the Customs Service to depart from the provisions of 10(ij) in any other respect. The end-use test not only is contrary to the concept of classification under 10(ij), it can destroy the ability of the Customs Service and other agencies to determine the volume of imports of articles which have broader application than parts of particular vehicles and machinery. (Page 128 of House Report No. 96-317, July 3, 1979).
>
> The actual-use requirements of General Headnote 10(e)(ii) will apply to item 870.40. The President's statement of administrative action notes that the requirements of Headnote 10(e)(ii) will be implemented by the Customs Service through "a certification system for confirming the actual-use of the item. This may involve actual-use certificates which will be obtained upon entry and returned within a specified period of time." The Committee is concerned about the potential for use of new item 870.40 as a tariff loophole and expects the Customs Service to enforce rigorously the requirements of Headnote 10(e)(ii) to protect the revenues. (Page 183 of Senate Report No. 96-249, July 17, 1979).

However, the enforcement of the provisions must not be so burdensome that the provisions are ineffective in providing duty-free benefits. Therefore, these interests must be balanced.

The Customs regulations in section 10.138 (19 CFR 10.138) contain the requirement that a proof of use must be made by certificate executed by 1) the superintendent or manager of the manufacturing plant, or 2) the individual end-user or other person having knowledge of the actual-use of the imported article. An importer of replacement parts entered under item 870.45 often "knows" that these parts will be used within the terms of 870.45, but knowledge of the actual time and place of use is either uneconomical or impractical to obtain. Therefore, in order to develop reasonable certification requirements in light of the intent of the law in items 870.40 and 870.45, new regulations may have to be drafted for articles entered under these provisions. A determination has not ye been made on the need for changes in the regulations. The guidelines should be used, until that time, as the proper basis for accepting certifications of actual use.

(November 29, 1982)

Attachment B.—Certification of Actual Use for Articles Entered Under Item 870.40 or 870.45, Tariff Schedules of th United States

1. Entry No.:

2. Description of articles:

3. Intended use within the scope of either item 870.40 or 870.45

4. Uses other than permitted uses under 870.40 or 870.45 whic are uses known in commerce for the imported article:

   a. Other than in agricultural or horticultural pursuits:

   b. Other than as parts for agricultural equipment classifie in 666.00:

5. What evidence is used to support this certification? (*e.g.*, statements from end-users, contract of sale to end-users, manufacturer records, distribution into specific channels of commerce whic result in the intended end-use, etc.)

6. Identify the distribution network for the imported articles:

7. Other relevant information and evidence supporting this certification:

8. Name of certifying party and authority to certify:

Signature:

Address:

(C.S.D. 83-33)

This ruling holds that the bonded carrier who receipts for th merchandise is liable for the proper transportation of the merchandise. Sections 18.1(a)(1), 18.1(a)(2), 114.22(c), 18.11(b), an 18.20 of the Customs Regulations are applicable in the instan case

Date: December 1, 1982
File: TRA-8-01 CO:R:E:E
719896 M

This ruling concerns the party liable under a transportation i bond entry for the proper transportation of the merchandise.

Issue: Is the consignee who filed the transportation entry in his name, or the bonded carrier shown on the entry who receipts for the goods, liable for the proper transportation of the merchandise?

Facts: A Canadian carrier notes that it is responsible for carrying merchandise from Canada to Detroit. At Detroit, this carrier transfers the merchandise to an American bonded common carrier for delivery in-bond to the port of final destination in the United States.

The Canadian carrier files with Customs at Detroit a Customs Form 7512 for such merchandise showing that the merchandise was "entered or imported" by itself (the Canadian carrier) "to be shipped in-bond via" the American bonded common carrier. The Canadian carrier will sign the declaration statement attesting to the accuracy of the information, whereas the American bonded common carrier will receipt from Customs for the goods.

The Canadian carrier notes that Customs varies at the ultimate ports of destination as to which party is liable for any shortages occuring under section 18.8(a), Customs Regulations, during the course of the transportation movement. Some ports of entry believe that the entrant (the Canadian carrier) is liable for such shortages, whereas other ports of entry consider the American bonded common carrier liable.

A broker likewise informs us that when the party who is shown on the transportation entry as importing or entering the goods differs from the party shown on the transportation entry as responsible for transporting the goods in-bond, there is a divergence in the field regarding the party responsible for the proper transportation of the merchandise. This is true, whether transportation entry is an immediate transportation entry or a transportation and exportation entry. The broker contends that in his opinion the language near the top of the Customs Form 7512 "Entered or imported by" serves no useful purpose, but instead causes confusion and results in a lack of uniform treatment. He, therefore, suggests that the language should be eliminated from the Customs Form 7512.

Law and analysis: Section 18.1(a)(1) of the Customs Regulations, in pertinent part, provides that merchandise to be transported from one port to another in the United States in bond shall be delivered to a common carrier, contract carrier, freight forwarder, or private carrier bonded for that purpose, but such merchandise delivered to a common carrier, contract carrier, or freight forwarder may be transported with the use of facilities of other bonded or nonbonded carriers. Section 18.1(a)(2), in effect, provides that if such merchandise is to be transported under cover of a TIR carnet, the same rule as set forth in section 18.1(a)(1) applies, except that the TIR carnet shall be responsible for liability incurred in the carriage of the merchandise under the carnet, whereas, the carrier's bond of the carrier who receipts for the merchandise shall be liable in accordance with section 114.22(c) of the Customs Regulations only for the total of duties and takes on any shipment which exceeds the amount which the guaranteeing association is liable.

Section 18.11(b) of the Customs Regulations provides that an entry for immediate transportation without appraisement may be made by:

(1) The carrier bringing the merchandise to the port of arrival,

(2) The carrier who is to accept the merchandise under its bond or a TIR carnet for transportation to the port of destination, or

(3) Any person shown by the bill or lading or manifest, a certificate of the importing carrier, or by any other document satisfactory to the District Director of Customs, to have a sufficient interest in the merchandise for that purpose.

The last sentence of section 18.20 of the Customs Regulations applies the same requirement for filing immediate transportation entries to transportation and exportation entries. This sentence provides that "acceptance of transportation and exportation entries shall be subject to the requirements prescribed in section 18.11(b for entry of merchandise for immediate transportation without appraisement."

In reviewing the above regulations, we believe that the following conclusions may be drawn. First, the bonded carrier who receipts for the merchandise is liable for the proper transportation of the merchandise. This is because section 18.1(a)(1) states that such merchandise must be delivered to an appropriate carrier "bonded for that purpose." As further evidence of this fact, section 18.1(a)(2 which sets forth the exception for merchandise transported under carnet, provides that the bonded carrier who receipts for the goods is liable for the total of duties and taxes on any shipment which exceeds that covered by the carnet. This would indicate that if a carnet is not involved the bonded carrier would be liable for th entire amount.

Furthermore, section 18.11(b)(3) provides that any person wh may have a sufficient interest in the merchandise may file a transportation entry. Such a person may not be a carrier and may no be able to obtain a bond that would sufficiently cover the transportation of the merchandise. The reason for permitting such a perso to file the transportation entry is that Customs desires for th person entering the merchandise to have sufficient knowledge the merchandise because he is attesting to the accuracy of the information set forth on such transportation entry and that all th requirements have been met. Thus, as pointed out in Manual Supplement 3511-02 dated July 31, 1981, as amended by Manua Transmittal 3500-12 dated July 7, 1982, it is the responsibility the party filing the transportation entry to make sure that all bon requirements for any in-bond entry are met. As an aside, this b comes extremely important regarding transportation and exportation entries concerning the bond coverage for the exportation such merchandise.

The bonded carrier by receipting for such merchandise acknowledges his responsibility to transport such merchandise, and thus obligates his carrier's bond.

Holding: The bonded carrier shown on the Customs Form 7512 as the shipper of the goods under his bond is liable for the proper transportation of the merchandise when he receipts for such goods.

(C.S.D. 83-34)

This ruling holds that an instrument entering the U.S. to be tested for compliance with Food and Drug Administration requirements pursuant to 21 CFR Part 812 may not enter the country free of duty under item 851.60, TSUS

Date: December 17, 1982
File: CON 5-02 CO:R:E:E
720803 KP

This ruling concerns whether an instrument which enters the United States for investigational purposes pursuant to Part 812 of the Food and Drug Administration Regulations (21 CFR Part 812) may receive duty-free treatment under item 851.60, Tariff Schedules of the United States (TSUS).

Issue: Is an instrument which is imported for testing purposes in order to obtain approval of the Food and Drug Administration (FDA) for its commercial distribution in the United States eligible for duty-free entry into the U.S. under item 851.60, TSUS?

Facts: Part 812 of the FDA Regulations (21 CFR Part 812) permits the entry of certain devices into the United States for testing to determine whether they comply with the laws and regulations under the domain of the FDA. If, as a result of such tests, the FDA approves the device, it may be promoted, test marketed, sold, or otherwise commercialized in the United States.

An American corporation imports devices covered by 21 CFR Part 812 for nonprofit institutions, which test them for compliance with FDA requirements. Frequently, the devices are classifiable under one of the TSUS provisions listed in Headnote 6(a), Part 4, Schedule 8 of the Tariff Schedules, and therefore, they are "instruments or apparatus" within the meaning of item 851.60, TSUS. Consequently, the nonprofit institutions for whom these articles are imported would like to enter them into the U.S. free of duty under that tariff provision.

Law and analysis: Item 851.60, TSUS, provides for duty-free entry of instruments and apparatus (as defined in Headnote 6(a), Part 4, Schedule 8, TSUS) entered for the use of any nonprofit institution, whether public or private, established for educational or scientific purposes, if no instrument or apparatus of equivalent scientific value for the purposes for which the instrument or apparatus is intended to be used is being manufactured in the United States.

Part 301 of the Commerce Regulations (15 CFR Part 301) sets forth the regulations applicable to the duty-free importation of merchandise under item 851.60, TSUS. 15 CFR 301.4(a) lists three determinations which must be made by the Customs Service before an application for duty-free entry under item 851.60, TSUS, may be forwarded to the Department of Commerce for further consideration. One such determination, provided for in 15 CFR 301.4(a)(3), is:

> Whether the instrument which is the subject of the application is intended for the exclusive use of the applicant institution and is not intended to be used for commercial purposes. For the purposes of this section, commercial uses would include, but not necessarily be limited to: * * * any use by or for the primary benefit of a commercial entity; * * *

If any of the determinations made by Customs concerning a particular application are in the negative, that application is deemed to be outside the scope of Public Law 89-651, the Educational, Scientific, and Cultural Materials Importation Act of 1966 (which added item 851.60, TSUS, to the Tariff Schedules), and the request for duty-free entry of the subject instrument must be denied.

In the instant situation, nonprofit institutions import instruments to test them for compliance with FDA requirements. If a device passes the tests, the foreign manufacturer acquires a new market for his merchandise. Even when a device does not pass the tests, the manufacturer gains knowledge as to what he must do to make the device comply with the pertinent laws and regulations so that he can market it in the U.S. in the future. Thus, the foreign manufacturer receives the primary benefit of these importations, notwithstanding that the institution which performs the tests has used and may continue to use the instrument for research purposes. Therefore, under 15 CFR 301.4(a)(3), instruments imported under the immediate circumstances are considered used for commercial purposes. Hence, such importations do not fall within the purview of the Educational, Scientific, and Cultural Materials Importation Act of 1966. Consequently, the instruments may not be afforded duty-free treatment under item 851.60, TSUS, upon entering the United States for FDA testing purposes by a nonprofit institution.

Holding: An instrument which is imported for testing purposes in order to obtain FDA approval for its commercial distribution in the United States may not enter the country free of duty under item 851.60, TSUS, because such importations are considered to be for commercial purposes.

(C.S.D. 83-35)

his ruling holds that the crab processing machinery installation is an addition to the hull and fittings of the fish processing vessel and should be liquidated as non-dutiable. Oil tankers, relocation of fish grinder, mezzanine extension, steel supplied, steel for fish holds, and lifting beam installation are non-dutiable alteration items. Exhaust fans, painting of vessel's name on stern, filter additions, electrical additions, installation of equipment on roof, valve adjustment and spiral freezer speed adjustment are dutiable repair/maintenance or equipment items.

Date: December 28, 1982
File: VES-13-18-CO:R:CD:C
105807 JL

To: Vessel Repair Liquidation Unit, San Francisco, California.
From: Director, Carriers, Drawback & Bonds Division.
Subject: Application for Further Review of Protest No. 31-262-000005, June 7, 1982, (company name); regarding V/R entry No. 100847, February 27, 1980, (vessel name).

The above-referenced case was referred to this office for advice by memorandum of September 7, 1982, your file PRO-4-0; CVLW. On October 1, 1982, the attorney for the protestant, (Mr. Blank), had a conference at the Carrier Rulings Branch on the case. He presented no new matter at the conference, merely restating the highlights of his client's position which are:

> 1. The expenditures at issue are not subject to duty under 19 U.S.C. 1466(a) because the vessel was not "fully documented" to engage in trade and it did not, in fact, engage in trade.
>
> 2. The expenditures at issue are not subject to duty under 19 U.S.C. 1466(a) because they are not for repairs, repair parts, or equipments.

The arguments advanced by the protestant on the first issue are basically that because the vessel did not have a certificate of inspection issued by the U.S. Coast Guard it could not engage in foreign trade even though it had a register; the possession of a register is not determinative of the application of section 1466 to a vessel (citing T.D. 48136, C.D. 4390, legislative history of 19 U.S.C. 1466(e), distinguishing *Elizabeth River Terminals*, 509 F. Supp. 512).

The Customs Service has always taken the position that the conjunctive phrase contained in 19 U.S.C. 1466(a), "A vessel documented under the laws of the United States to engage in the foreign or coasting trade, or a vessel intended to be employed in such trade", means that the vessel repair statute levies a duty on expenditures for American vessels which are *either* documented to engage in foreign or coastwise trade *or* are non-documented but nonetheless intended to engage in foreign or coastwise trade. The courts have in a few instances disagreed with this interpretation, particularly in two cases cited by the protestant; *Corpus* (C.D. 4390) and *Standard Dredging* (T.D. 48136). The *Corpus* decision was overruled as to all post 1971 section 1466 amendment (subsection (e)) entries by the Court of International Trade in *Elizabeth River Terminals* (509 F. Supp. 512).

The U.S. Court of Appeals for the Federal Circuit in a case decided October 28, 1982, *South Corporation and Seal Fleet Inc., v. U.S.* Appeal No. 82-19, fully explored the issues raised here and disposed of them as follows:

(a) The coverage of section 1466 is clearly conjunctive and the election not to utilize a vessel in trade is irrelevant if it is documented.

(b) If section 1466(a) did not impose duties on documented vessels which were not utilized in trade prior to the amendment of the statute in 1971 then there would have been no purpose in the amendment; therefore the coverage did extend to those vessels then, as now.

(c) The whaling vessel cases which held that the repair statute did not apply to that class of ships gave effect to a specific statute exempting them from coverage, and are not precedents for exempting any other class of vessel from duties.

(d) Statutes exempting oceanographic research vessels from inspection and personnel protection laws have no bearing on statutes involving the assessment of duties.

Item (d) is partially applicable to an argument raised in the protest, to wit, that the vessel at issue could not have obtained a clearance to a foreign port because it did not have a certificate of inspection from the Coast Guard. This lack of certificate is characterized as putting the vessel in the status of being "not fully documented", and therefore not within the ambit of section 1466. The term "documented" means registered, enrolled and licensed, or licensed by the U.S. Coast Guard. See section 4.0(c), Customs Regulations. In our opinion, a certificate of inspection is not a "document" for purposes of the vessel repair statute. Additionally, the Coast Guard Regulations, as amended on June 24, 1982, to implement P.L. 96-594, now list the following types of license (forms of documentation): Registry, Coastwise license, Great Lakes license, Fishing license, and Pleasure license. See 46 CFR sections 67.17- through 11. We observe that in no part of 46 CFR is a certificate o inspection mentioned as a condition of obtaining documentation o as a form of documentation (license).

(2) The protestant has appended to the protest a list of 26 expenditures which are claimed to be "Additions and modifications t vessel," and thus not dutiable. He cites two of the leading cases o the subject of vessel equipment versus hull and fittings modifications or alterations, i.e., T.D. 44359 (*Admiral Oriental Lines*) an T.D. 36489 (*Otte*). His conclusion is as follows:

> The machinery installed to enable the (vessel name) to engage in crab processing is permanently attached to the vessel, and is necessary for the vessel to carry out its function. This machinery is not portable; it would remain on the vessel if the vessel was in port for a significant period of time. In addition, the installation of the crab processing machinery necessitated substantial modifications to existing structures which would not otherwise have been necessary.

In case 104279 (December 20, 1979), the installation of crab processing equipment was held to be a dutiable expenditure as "equipments" under section 1466. The file in that case discloses that the vessel was extensively modified; in fact the vessel was to be cut in two and both lengthened and widened. As in the instant case, the vessel in case 104279 was a fish processor before and after the foreign shipyard work.

The characterization of an article as vessel equipment, as opposed to fittings or hull/structural parts, is manifestly difficult in cases where the article has many of the attributes of both classes cited in the leading cases. For example, because a vessel pitches and rolls when at sea all radio gear is securely fastened, yet is classified as equipment even when such articles are usually too large to be considered (in ordinary parlance) "portable". Whether an article is "permanently attached" to a vessel, as is claimed in this case, is likewise difficult to ascertain. The machinery in case 104279 is, presumably, essentially identical to that in the instant case yet it was installed as a replacement. That the installation of this machinery entailed some modification to existing structures is relevant but, the extent of such modifications will of necessity vary from vessel to vessel. The decision in each case of this type is to a great extent dependent upon the detail and accuracy of the drawings and invoice descriptions of the actual work performed. In this case, a detailed set of invoices from the shipyard and an article from *Food Engineering* magazine, March 1979, issue, containing detailed cutaway drawings and descriptive text of the barge have been supplied.

After reviewing those documents, we are of the opinion that the crab processing machinery installation is an addition to the hull and fittings of the (vessel name). Accordingly, items 1, 14, 20, 21, and 25 should be liquidated as non-dutiable. Additionally, items 3 (oil tanks), 6 (relocation of fish grinder), 9 (mezzanine extension), 10 (steel supplied), 11 (steel for fish holds), and 15 (lifting beam installation) are non-dutiable alteration items. Items 2 (exhaust fans), 4 (painting of vessel's name on stern), 5 (filter additions), 13 (electrical additions), 16 (installation of equipment on roof), 17 (valve adjustment), and 18 (spiral freezer speed adjustment) are dutiable repair/maintenance or equipment items. Regarding items 7, 8, 22, 23, and 24, not enough information has been furnished. The protestant should be afforded an opportunity to make additional subm sions on these items.

Please inform the protestant of our decision.

(C.S.D. 83-36)

This Decision Holds That, Subject to the Requirements of Sectic 141 and 142, Customs Regulations, an Entry Summary May I Filed at the Port of Destination for an Entire Shipment Fo warded as Installments Under Multiple Immediate Transport tion Entries From the Port of Arrival When Only a Portion Such Shipment Has Been Received at the Port of Destination.

Date: July 2, 1981
File: ENT-1-01 RRUEE
714122 M

This ruling concerns whether an entry summary may be filed a the port of destination for an entire shipment forwarded in-bon from the port of arrival when only a portion of such shipment ha been received at the port of destination.

Issue: May an entry summary be filed at the port of destinatior for an entire shipment forwarded as installments under multipl immediate transportation entries from the port of arrival wher only a portion of such shipment has been received at the port o destination?

Facts: In some cases a shipment consisting of several containers, lots, etc., destined for an interior port will arrive at a coastal port, and be moved to the port of destination under one or more immediate transportation entries (CF 7512). The shipment will arrive at the port of destination as several separate "installments" over a period of 10 to 20 days.

Prior to passage of the Customs Procedural Reform and Simplification Act of 1978 (Public Law 95-410), these shipments would be entered in the following manner. The broker or importer would file an immediate delivery application upon receipt of the first "installment." In order to be timely filed, the broker or importer would then file a formal entry for the entire invoiced shipment even though all of the goods had not arrived. When additional installments arrived after formal entry had been filed, they were released against the existing entry. This procedure was specifically endorsed by Service Headquarters letter ENT-1-01 R:E:E 305638 dated June 16, 1978, and an instructional telex dated June 14, 1978, was sent to all Regional Commissioners and district directors by Headquarters.

Law and analysis: With the passage of the Customs Procedural Reform and Simplification Act of 1978 (Public Law 95-410), and the regulations issued thereunder implementing the entry/entry summary procedure, the above procedure has been questioned. Section

141.56 of the Customs Regulations now provides that district directors may accept one entry summary for consumption or for warehouse for merchandise covered by multiple entries for immediate transportation, subject to the requirements of section 142.17(a), Customs Regulations, provided the merchandise covered by each immediate transportation entry is released at the port of destination under a separate entry, in accordance with section 142.3, Customs Regulations.

Section 142.17(a) authorizes district directors to permit the filing of one entry summary for merchandise, the subject of separate entries, if certain requirements are met. (Section 142.17(b) provides that this procedure cannot be used for certain kinds of merchandise, such as quota-class and prohibited merchandise). One of the requirements imposed by section 142.17(a)(4) is that the time between the date of the first entry and the date of the last entry *must not exceed 1 week*. This provision thus imposes a much stricter time limitation than was imposed under the practice described above under *FACTS*, since the arrival of the "installments" of the shipment may be spread out over a period of 10–20 days.

Section 141.63 of the Customs Regulations provides that when an entry summary is submitted prior to the arrival of the merchandise, estimated duties shall not be accepted before the arrival of the merchandise within the port limits.

We do not believe that Public Law 95-410 or the amendments made to the Customs Regulations by TD 79-221, in particular sections 141.63, 141.56, and 142.17 of the Customs Regulations, prohibit or limit the practice of permitting the filing of an entry summary for in-bond arrived at the port of destination. It is our opinion that section 141.63 of the Customs Regulations should be interpreted in the case of installment shipments forwarded in-bond, as meaning that duties may not be accepted until the first installment of such merchandise arrives within the port limits. This interpretation would be consistent with section 141.55 of the Customs Regulations which authorizes district directors to accept an entry summary for consumption for the entire quantity of merchandise covered by an entry for immediate transportation after the arrival of any part of the merchandise at the port of destination. Customs cannot officially accept an entry summary for consumption until the duty is deposited. As indicated by our past practice and rulings, this same principle of permitting an entry summary to be filed for the entire shipment forwarded as installments under an immediate transportation entry likewise applies to a shipment forwarded as installments under multiple immediate transportation entries.

There was no intent in TD 79-221 to change this practice. Section 141.56 of the Customs Regulations was written with the intent of setting forth this principle in the regulations. The time limitation set forth in section 142.17 of the Customs Regulations is concerned about the instances when portions of the installment shipment are released prior to the filing of the entry summary along with the deposit of duties. This section does not address the question as to the instance when an entry summary and duties are deposited for a shipment which has arrived in the United States, is forwarded to the port of destination under multiple immediate transporation entries, and an entry summary and duty deposit has been made.

If an entry summary and duty are deposited for an installment shipment, and some portions of this shipment have not yet arrived at the port of destination from the port of arrival, each installment which arrives after the deposit of such entry summary and duty shall be released under Customs Form 3461 or other appropriate documentation. In such instances, since duty and an entry summary have already been deposited with Customs, Customs Form 3461 or other appropriate documentation used to secure the release of the merchandise would be considered a permit for delivery rather than an entry, within the meaning of section 142.17(a)(4), Customs Regulations. The entry number given on the entry summary should be shown on the permit for delivery (Customs Form 3461 or other appropriate documentation).

Holding: An entry summary may be filed at the port of destination for an entire shipment forwarded as installments under multiple immediate transportation entries from the port of arrival when only a portion of such shipments has been received at the port of destination.

(C.S.D. 83-37)

This Decision Holds That, Unless Owing to an Indavertence Within the Meaning of Section 520(c)(1), Tariff Act of 1930, As Amended, the Importer's Certificate of Use Required by the Civil Aircraft Agreement Must Be Filed at the Time of the Filing of the Entry Summary

Date: October 27, 1981
File: ENT-1-01 CO:R:E:E
716812 M

This ruling reviews the protest against the district director's refusal to permit the filing of an importer's certificate of use required under the Civil Aircraft Agreement, subsequent to the entry of the part involved.

Issue: May the certificate of use required under the Civil Aircraft Agreement be filed subsequent to the filing of the entry summary?

Facts: An aircraft manufacturer entered in January 1980, aircraft tries under item 772.45 of the Tariff Schedules of the United States (TSUS) dutiable at 4.4 percent of the value of the aircraft tires. The entries were liquidated on February 6, 1980, "as entered." On March 12, 1980, the importer filed a protest with the strict director of Customs at the port of entry involved and reested that the entries be reliquidated as free. He contends that e aircraft tries will be used in a civil aircraft, and, therefore, are ee of duty under the Civil Aircraft Agreement. He also at the me of the filing of the protest attached the required certificates of e.

The district director of Customs denied the protest on the basis at the written certification is required to be filed at the time of e filing of an entry summary and thus he is unable retroactively give the importer the benefit of the Civil Aircraft Agreement.

Law and analysis: Section 601(a) of Public Law 96–39 provides, in ertinent part, that civil aircraft and certain specified civil aircraft rts may be entered duty free provided the importer files a writn statement that: (1) the article has been imported for use in a vil aircraft; (2) it will be so used; and (3) the article has been aproved for such use by, or application for approval of such use has een accepted by, the Administrator of the Federal Aviation gency (FAA). Approval by a foreign airworthiness authority for se in a civil aircraft could be cited in lieu of FAA approval if the pproval is recognized by the FAA as an acceptable substitute for AA approval. In the House Report regarding section 601 of Public aw 96–39, it was stated that the importer's written statement ater in the report referred to as certification) must be filed at me of entry. In headquarters instructions to the field implementg the Civil Aircraft Agreement, it was stated that the importer's ertificate of use must be filed with the entry summary package. It as further noted that if the certification was not filed as part of e entry summary package, such certification will not be treated a missing document, and that a bond will not be allowed to be osted for the subsequent production of such document.

In proposed section 10.180(c) of the Customs Regulations, which as part of the proposed Customs Regulations published in the ederal Register on January 8, 1980 (44 F.R. 1633), as suggested imlementation of the Civil Aircraft Agreement, it was stated that e importer's certification of use must be filed at the time of the ling of the entry summary.

It is clear from legislative history, and instructions to the field nd the proposed Customs Regulations that the required certificate f use must be filed with the entry summary. As noted in the legisative history, the certification requirement imposed under the ivil Aircraft Agreement is a certificate of use provision rather han an end use provision. The monitoring of such entries under he Civil Aircraft Agreement would be through the use of selective udits, rather than any actual use documentation that need be iled with Customs. Therefore, it is imperative that Customs reeive with the entry summary the required certification.

In the initial implementation of the Civil Aircraft Agreement, here is some confusion as to whether certain circumstances, such as if an aircraft was being imported for repair in the United States, or if an aircraft has previously received drawback, or if the required use was accomplished outside of the United States, would prevent an importer from being entitled to enter his aircraft or parts as duty free under the Civil Aircraft Agreement. It has since been determined that factors, such as those listed above, would not prevent an importer from being entitled to enter his aircraft and aircraft parts as duty free under the Civil Aircraft Agreement. If, for an example, an importer could document that he had been informed by Customs that he could not enter his aircraft or parts as duty free because it was being brought in for repair, he would be able to later submit the required certification under the provisions of section 520(c)(1), Tariff Act of 1930, as amended, and be entitled to have the Civil Aircraft Agreement provisions be applied to his entry.

However, the importer in this case did not specify why he did not file the required certification at the time of the filing of the entry summary. Therefore, we are unable to accept the latest submission of this certificate.

Holding: The importer's certificate of use required by the Civil Aircraft Agreement must be filed at the time of the filing of the entry summary. A later submission of the required certification is not acceptable, unless the importer can satisfy Customs that the failure to file such certificate at the time of the filing of the entry summary was due to a clerical error, mistake of fact, or other inadvertence within the meaning of section 520(c)(1), Tariff Act of 1930, as amended.

The protest is therefore denied in full.

(C.S.D. 83-38)

This Decision Holds That, Pursuant to Section 402(B)(4) of the Tariff Act of 1930, as Amended by the Trade Agreements Act of 1979, Payment for Quota Purchased From a Party Related to the Seller of the Merchandise Is Not Part of Transaction Value When the Quota Purchase Is Clearly a Separate Transaction

Date: August 25, 1982
File: CLA-2-CO:R:CV:V
Filed: 542703 TLL
TAA #50

To: Area Director Seaport, New York, New York 10048.
From: Director, Classification and Value Division.
Subject: Quota Payments; I.A. 193/81.

The facts in this case are quite similar to those involved in Protests No. 1001-1-007663, an Application for Further Review. The major distinction between these situations is that the internal advice involves permanent quota, while the protest (application for further review) involves temporary quota.

The facts submitted to Headquarters for review are not particulary complicated. The importer on a number of occasions has obtained quota from an agent who is also a majority stockholder of some of the manufacturers of the garments purchased by the importer.

Where the agent was involved in the quota purchase transactions, he or one of his companies, would sometimes advance the money in whole or part (deposit) to the unrelated quota broker or holder and would be reimbursed by the importer at a later date. On other occasions, the importer would forward payment to the agent prior to such time as he purchased quota for the importer. The agent, in turn, would transfer payment to the unrelated quota sellers. Under both sets of circumstances, the importer's payments through its agent were specifically earmarked to purchase quota on behalf of it. All quota purchased by the agent for the importer could, and is, in fact, being utilized by the importer in any manner it desires, including the exportation of merchandise to the United States produced by companies in which the agent does not have any proprietary interest.

You also point out that while the agent acted in an identical manner as the importer's agent when purchasing both temporary and permanent quota on its behalf, the manner in which the importer capitalized and expensed permanent quota on its books and records was different. Unlike a temporary transfer of quota, in which the transferor retains the right of allocation in the succeeding restraint period, a permanent transfer allows the transferee to utilize the quota until its final expiration date.

After receiving these permanent quota rights, the importer entered the quota on its books as a capital asset and expensed the quota over the quota's useful life (date of purchase through December 31, 1982) (its expiration date). This manner of allocation, which is in accordance with generally accepted accounting principles, allowed the importer to expense $696,008 of its permanent quota prior to July 1, 1980, with $2,298,133 to be expensed between July 1, 1980, and December 31, 1982.

Essentially, the question directed to us is whether the quota payments concerned are part of the "price actually paid or payable for the imported merchandise." In this regard, section 402(b)(4) of the Tariff Act of 1930, as amended by the Trade Agreement Act of 1979, provides:

> (A) The term "price actually paid or payable" means the total payment (whether direct or indirect, and exclusive of any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation in the United States) made, or to be

made, for the imported merchandise by the buyer to, or for the benefit of, the seller.

Thus, in our opinion, payment relating to the imported merchandise would be part of the "price actually paid or payable" while payments unrelated to the imported merchandise would not be part of the "price actually paid or payable." This distinction has been alluded to in previous rulings. See for instance TAA No. 31, June 11, 1981, wherein we stated "interest payments made by the buyer to the seller that are arranged as part of the invoice transaction are part of the "total payment * * *". In accord is TAA No. 43, dated December 17, 1981, wherein we stated, "* * * it appears to us that this type of separate financing arrangement, fully documented as being separate from the import transaction, is not part of the price actually paid or payable for the imported merchandise * * *." Also relevant is TAA No. 45, dated January 26, 1982 in which certain cash advances from the buyer to the seller were not considered as part of the price actually paid or payable.

In short, the question of whether a financial arrangement between the buyer and seller is part of the "price actually paid or payable" is a question of fact which must be determined on the basis of evidence available with regard to that particular transaction. Under the facts of this case, we find that the payments in question are not "part of the price actually paid or payable," and, therefore, are not part of the transaction value of the merchandise.

(C.S.D. 83-39)

This Decision Holds That a Value Adjustment to Imported Merchandise May Be Reflected Only on the Entry or Entries Which Relate to the Imported Merchandise

Date: September 9, 1982
File: CLA-2:CO:R:CV:V
542846 CW

Re: Application for Further Review of Protest No. 3803-2-000040.

Dear Sir: The above-referenced protest concerns the proper valuation of certain fabricated steel structural units from Canada, which were appraised on the basis of export value, section 402(b) of the Tariff Act of 1930, as amended by the Customs Simplification Act of 1956.

The record reflects that the single protested entry is one of a number of entries covering structural units imported over a period of time pursuant to a purchase ageement between the foreign manufacturer and the United States purchaser. The entries other than the protested entry were liquidated at entered values. However, because the total contract amount significantly exceeded the total of the entered values for all the entries. the appraising officer adjusted the value of the one entry under protest to compensate for the ifference between the two amounts. As stated in your memoran-um of April 27, 1982, the entry was appraised "to effect a duty ncrease equal to the total amount of additional duty due on the ntire contract."

The protestant (importer) contends that the entered values for ll the entries are correct for the reason that the agreement was a nit price contract and the quantity of goods actually delivered was ess than that specified in the contract. The protestant further aintains that the total contract price was merely an estimated mount. Your office recommends that the protest be denied on the rounds that no evidence has been submitted to substantiate the rotesting party's claims.

We agree with you that the protestant has failed to furnish suffi-ient corroborating evidence in support of its contentions. However, s you know, 19 U.S.C 1514(a) provides, in relevant part, that:

> "* * * decisions of the appropriate customs officer * * * as to * * * the appraised value of merchandise * * * shall be final and conclusive upon all persons (including the United States and any officer thereof) unless a protest is filed in accordance with this section * * *."

Thus, the values, as liquidated, of the imported structural units overed by the entries which were *not* protested constitute the final ppraised values for that merchandise. Moreover, even if the pro-est period had not expired with respect to any of the entries asso-iated with the purchase agreement, we believe it would have been mproper to reflect a value increase in regard to certain structural nits on any entry other than the entry or entries which encom-ass those units.

You are directed to dispose of the protest in accordance with the oregoing. The amount of the value increase shall be limited to the ifference between the entered value of the merchandise covered y the protested entry and the pro rata share of the total contract rice represented by the merchandise. Your file is returned.

(C.S.D. 83-40)

his Decision Holds That, Pursuant to Section 402(b)(4), Tariff Act of 1930, As Amended by the Agreements Act of 1979, Payments Incurred Pursuant to a Separate Agreement To Inspect and Ensure Delivery of Fabric for a CMT Operation Are Nondutiable Under Transaction Value

Date: September 21, 1982
File: CLA-2 CO:R:CV:V
542831 LDD
TAA #52

DEAR (NAME): This is in response to your letter of May 20, 1982, hich requested a ruling concerning the proper elements to be in-

cluded in determining the appraised value of imported wearing a
parel under transaction value.

You submit that that importer purchases various articles
wearing apparel from sources in the Far East. The importer e
gages a contractor to fabricate the garments (a CMT operatio
using fabric purchased by the contractor from suppliers designat
by the importer. The importer negotiates the price for the fabr
(including transportation) with the supplier. The contractor is th
paid for the CMT services at a negotiated price which includes r
imbursement for the purchase of the fabric plus a markup.

It is now proposed to restructure this procedure so that the pri
negotiated with the contractor is limited to the CMT services. T
reimbursement for the cost of the purchased fabric would be sep
rated out on the purchase orders and invoices. In addition, the pa
ties would enter into a service agreement which would provi
compensation to the contractor in return for services rendered f
ensuring the delivery and inspection of the fabric. The contract
would receive a precentage of the fabric's cost as compensation.

You contend that under transaction value, our appraiseme
should take the CMT charges plus the purchase price of the fabr
and other materials plus transportation to the CMT plant to rea
transaction value. You conclude that compensation given the co
tractor pursuant to the service agreement should be excluded fro
an appraisement of the imported merchandise. You have advanc
several theories to support this conclusion.

It is first contended that the purchase of the services (delive
and inspection) would be clearly separate from the purchase of t
imported merchandise. Payments made under the service agre
ment would be made at periodic intervals, not associated with t
sale of any specific merchandise for exportation to the Unit
States. Thus, amounts paid under the agreement would not be pa
of the price paid or payable for the merchandise.

It is also contended that the reimbursement for the fabric can
analogized to an assist, with its value limited to its cost (purcha
price plus transportation). The cost of procurement is not to be i
cluded in its value.

Finally, it is proposed that the service agreement be characte
ized as a buying agency agreement since the contractor purchas
the fabric and is paid a commission for doing so. Such commissio
would not ordinarily be dutiable under transaction value.

Under our preferred basis of appraisement, transaction valu
merchandise is appraised at the price "actually paid or payable f

the merchandise when sold for exportation to the United States." Our question is whether the payments under the service agreement are part of the "price actually paid or payable for the imported merchandise." In this regard, section 402(b)(4) of the Tariff Act of 1930, as amended by the Trade Agreement Act of 1979, provides:

> (A) The term "price actually paid or payable" means the total payment (whether direct or indirect, and exclusive of any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation in the United States) made, or to be made, for the imported merchandise by the buyer to, or for the benefit of, the seller.

Thus, in our opinion, payments relating to the imported merchandise would be part of the "price actually paid or payable" while payments unrelated to the imported merchandise would not be part of the "price actually paid or payable." This distinction has been made in previous rulings. See TAA #31, June 11, 1981, where we stated that interest payments arranged as part of the invoice transaction between the buyer and seller are part of the "total payment * * *." In TAA #43, dated December 17, 1981, we concluded that it appears that a separate financing arrangement, fully documented as being separate from the import transaction, is not part of the price actually paid or payable for the imported merchandise. Also relevant is TAA #45, dated January 26, 1982, in which certain cash advances from the buyer to the seller were not considered as part of the price actually paid or payable.

In our latest ruling on this issue, TAA #50 dated August 25, 1982, which concerned quota payments, we concluded that the question of whether a financial arrangement between the buyer and seller is part of the "price actually paid or payable" is a question of fact which must be determined on the basis of evidence available with regard to that particular transaction.

Under the facts of this case, we conclude that the payments which would be made pursuant to the service agreement would not be directly related to the imported merchandise. Payments would be made periodically, and not tied to the sale for exportation of any specific merchandise. Accordingly, we find that the payments in question would not be part of the "price actually paid or payable," and, therefore, would not be part of the transaction value of the merchandise.

(C.S.D. 83-41)

This Decision Holds That an Oil Exploration Rig Not Designed or Suitable for Use in the Carriage of Passengers or Cargo Is a "Special Purpose Vessel" Within the Meaning of 19 U.S.C. 1466(e). Accordingly, Only Those Repairs and Equipment Purchases Effected During the Initial Six Months of the Vessel's Foreign Voyage Need Be Declared and Entered

Date: September 29, 1982
File: VES 13-18-CO:R:CD:C
105828 JL

DEAR (NAME): This is in reference to your request for a ruling of September 8, 1982, concerning the status of the vessel (name) which is due to arrive in (location) on October 1, 1982.

You state that the vessel is American-flag operating under a register with a service of oil exploration. The vessel last departed the United States on or about May 15, 1973, and as agent for (name) its owner and operator, you request a determination that (name) is a "special purpose vessel" within the meaning of 19 U.S.C. 1466(e) and section 4.14(a)(2)(iii)(A), Customs Regulations. In support of your request, officials of (name), telexed a declaration to this office certifying that the vessel did not carry passengers and/or cargo at any time during the period it last departed the United States up to its imminent arrival on October 1. Further in support of your request, two photographs of the vessel were furnished.

The photographs furnished clearly illustrate that the (name) is an oil exploration rig which is not designed or suitable for the carriage of passengers and/or cargo. The photographs and the certification by your principal that the vessel was not used to carry passengers or cargo in the foreign trade during a voyage from the United States of more than two years' duration is sufficent for Customs to determine that the vessel qualifies as a "special purpose vessel" pursuant to section 4.14(a)(2)(iii)(B), Customs Regulations, because of the unusual characteristics of this type of craft.

Accordingly, only those repairs and equipment purchases effected during the initial six months of the vessel's foreign voyage need be declared and entered.

This determination, however is subject to such verification, if any, that Customs officials handling the declaration and entry may decide is necessary for proper liquidation including, but not limited to, an examination of the vessel's logs for the voyage at issue. A copy of this ruling is being furnished to the Regional Commissioner of Customs at Los Angeles.

(C.S.D. 83-42)

This Decision Holds That Tires To Be Used on Flat-Bed Trailers and Transported Coastwise on a Foreign-Flag Vessel Do Not Come Within the Definition of "Stevedoring Equipment and Material" As That Term Is Used in the Sixth Proviso of 46 U.S.C. 883. Transportation of the Tires Between Coastwise Points of the United States on a Non-Coastwise Vessel Is Prohibited

Date: January 5, 1983
File: VES 3-20 CO:R:CD:C
105922 JM

This ruling concerns the applicability of the 6th proviso of 46 U.S.C. 883 to certain tires to be transported coastwise on a foreign-flag vessel.

Issue: Whether tires to be used on certain flat-bed trailers (chassis) come within the definition of "stevedoring equipment and material" as that term is used in the 6th proviso of 46 U.S.C. 883, and thus may be transported between points in the United States on non-coastwise qualified vessels.

Facts: The inquirer, an ocean carrier, desires to transport tires between United States ports on foreign-flag vessels, which the inquirer operates as charterer. The inquirer would load the new or recapped tires, which are manufactured in Florida and New Jersey, aboard the subject vessels at either Jacksonville, Florida, or Charleston, South Carolina. The tires would be discharged at New Orleans, Louisiana, or Galveston, Texas, for use on chassis owned by or leased to the inquirer. The inquirer states that the chassis are used to transport instruments of international traffic (containers) and that the chassis are only used domestically. The chassis are used to transport containers locally at the port of arrival of the containers in the United States and between that port and the desination of the containers in the United States.

The inquirer believes that the above described transportation of he tires aboard the foreign-flag vessels is permissible in that the subject tires fall within the definition of "stevedoring equipment and material" as that term is used in section 4.93(a)(2), Customs Regulations.

Law and analysis: Title 46, United States Code, section 883, generally prohibits the transportation of merchandise between points embraced within the coastwise laws of the United States in any other vessel than a vessel built in and documented under the laws f the United States and owned by persons who are citizens of the United States. However, the 6th proviso of section 883 permits forign vessels, on the basis of reciprocity and U.S. vessels not qualiied to engage in coastwise trade to transport empty containers oastwise. An amendment to the proviso also permits, subject to he same qualifications, the transportation of equipment for use with containers and stevedoring equipment and material, if such equipment and material is owned or leased by the owner or operator of the transporting vessel, or is owned or leased by the stevedoring company contracting for the lading or unlading of the vessel and is transported free of charge.

Prior to the passage of the amendment to the 6th proviso, the Customs Service had ruled that the coastwise transportation of stevedoring equipment by a vessel not qualified to engage in the coastwise trade was prohibited by section 883. When the bill which amended the 6th proviso was presented to the Treasury for its consideration, the Department reported to the Congress that, if enacted, the bill would facilitate the employment of articles in the "stowage, lading, or unlading of cargo in foreign trade." The Congress then proceeded to enact the bill.

In order to promulgate this amendment, the Department issued paragraph (2) of section 4.93(a) of the Customs Regulations, the language of which is identical to that of the statute.

As a general rule of law, words used in a statute are to be given their usual and commonly understood meaning, unless it is plain from the statute that a different meaning is intended. Dictionaries define the term "stevedore" as one who works at, or one who is responsible for, the loading and unloading of a vessel. Thus the term "stevedoring equipment" would be equipment used to load and unload vessels.

As stated above, the Treasury Department reported to the Congress that the bill would affect articles used to load and unload cargo. As the Congress enacted the bill into law with the knowledge of how the words would be interpreted, we must assume that the Congress intended the statute to mean what the Treasury Department stated it would mean. The fact that certain equipment is used by stevedores does not, by itself, cause that equipment to be considered "stevedoring equipment and material" unless that equipment is used in the stowage, loading, or unloading of a vessel.

The subject chassis will be used primarily in the transportation of containers between points in the United States rather than in the stowage, loading or unloading of a vessel. Accordingly, neither the chassis nor the tires dedicated to use thereon come within the definition of "stevedoring equipment and material" as that term is used in section 4.93(a)(2), Customs Regulations.

Holding: Tires dedicated to use on the subject chassis do not come within the definition of "stevedoring equipment and material" as that term is used in the 6th proviso of 46 U.S.C. 883. Transportation of the tires between coastwise points of the United States on a non-coastwise vessel is prohibited.

(C.S.D. 83-43)

is Ruling Holds That American-Flag Vessels Which Are Rebuilt in a Foreign Port Are Not Subject to Vessel Repair Duties on the Cost of Such Work. However, Any Repairs, Equipment, Parts, etc., Purchased for the Vessels Outside the U.S. After Completion of the Rebuilding in the Foreign Port Will Be Subject to Duty Pursuant to 19 U.S.C. 1466(a)

Date: January 7, 1983
File: VES-13-18-CO:R:CD:C
105926 JL

This is in reference to your letter of December 8, 1982, concern- g the dutiability of certain work performed in Korea on the essel No. 1 and the Vessel No. 2 (formerly the (vessel name) and e (vessel name) respectively). The cost of the work was 9,000,000 for each vessel. You asked if the modification and alter- ion work described on pages 6 through 54 of the specifications d in the accompanying engineering drawings submitted by you ll be subject to duty under 19 U.S.C. 1466.

On December 29, 1982, you forwarded a copy of a letter from the erchant Vessel Documentation Division, United States Coast uard, dated December 20, 1982, which holds that the work per- rmed on the Vessel No. 1 and Vessel No. 2 in Korea qualified the ssels as "rebuilt" within the meaning of 46 C.F.R 67.27-3(a), and at coastwise trading privileges will be lost under 46 U.S.C. 883 as result.

Customs has previously held that vessels which are "rebuilt" in a reign port are not American-flag vessels subject to the imposition vessel repair duties on the cost of that work. Accordingly, no ssel repair duties will be payable upon the first arrival of the bject vessels in a port of the United States. Any repairs, equip- ent, parts, etc., purchased for the vessels outside the United ates after completion of the rebuilding in the Korean shipyard ll, of course, be subject to duty pursuant to 19 U.S.C. 1466(a).

(C.S.D. 83-44)

This decision holds that certain subassemblies used in aircraft ssenger entertainment/service systems are classifiable under the ovision for other parts of aircraft in item 694.61, Tariff Schedules the United States (TSUS), or in item 694.62, TSUS, entitled to try free of duty, if certified for use in civil aircraft.

Date: April 30, 1981
File: CLA-2 CO:R:CV:G
066654 JAS

To: District Director of Customs, San Diego, California 92188.
From: Director, Classification and Value Division.
Subject: Internal Advice 125/80; Electronic Subassemblies for Aircraft Passenger Entertainment/Service System.

With a memorandum dated June 9, 1980 (CLA-1-S:C:CP:CV), from the port of Calexico, there was attached a submission, dated May 21, 1980, and related documentation, from the (company name) (company location). The inquiry concerns the proper classification of certain subassemblies used in DC 10 and B 747 aircraft passenger entertainment/service systems. These subassemblies are imported from (company name) affiliate.

Facts: From the submission and additional information received orally from the inquirer's counsel, it appears that the passenger entertainment/service system is actually one unit specially designed and built for jumbo passenger jets. The unit comprises various integral subassemblies, is imported disassembled, with only testing and minor adjustments required prior to installation. We are informed the system is always sold as a complete unit and that it is commercially unfeasible to separate and/or sell the various components individually. These subassemblies have been certified by the F.A.A. for use in civil aircraft.

The passenger entertainment feature of this system consists primarily of a main multiplexer which receives audio input signals from a tape reproducer and converts them for transmission on a single coaxial cable. At each movie section or zone the signals enter several submultiplexers where movie audio and passenger address override inputs are added. The combined data is directed by another coaxial cable to demultiplexers covering seat groups where it is reconverted, amplified, and presented to individual passengers in each seating group.

The passenger service feature of the system comprises a section timer/decoder which generates timing signals for transmission to columns in each seating group. Seat encoders and overhead decoders allow each passenger to activate his individual reading light and attendant call mechanism. This feature also encompasses the public address system and overhead oxygen control apparatus in the event of sudden loss of cabin pressure. Audio/visual, attendant call, and reading light functions are activated by a control unit located on the arm of each seat.

Issue: Is the described system classifiable under the provision for parts of airplanes, certified for use in civil aircraft, in item 694.62, Tariff Schedules of the United States (TSUS), or under the provision for electrical articles and parts of articles, not specially provided for, in item 688.45, TSUS?

Law and Analysis: Under General Interpretative Rule 10(ij), TSUS, a provision for "parts" of an article covers a product solely or chiefly used as a part of such article but does not prevail over a specific provision for such part. Counsel for the internal advice applicant cites *Beacon Cycle & Supply Co., Inc. v. United States,* 81 Cust. Ct. 46, C.D. 4764 (1978), to support the contention that a TSUS item number covering parts of an article takes precedence over a "basket" tariff provision. In the cited case, solid state receivers/headlights were found to be classifiable as bicycles parts, in item 732.36, TSUS, rather than in a specific provision claimed to cover these combination articles, or in the basket provision for electrical articles and parts of articles, not specially provided for, in item 688.40 (now 688.45), TSUS.

When an article at the time of its importation is claimed to be dedicated to a specific use, the question of whether it is a "part" for tariff purposes must be determined from the nature of the article as applied to that use. See *United States v. Antonio Pompeo,* 43 CCPA 9, C.A.D. 602 (1955), and related cases. The concept of parts has evolved over the years. The so-called "rule of essentiality" over time became the "dedicated to use" test. With the advent of the TSUS and the General Interpretative Rules, the concept of "chief use" appeared. The most recent line of cases has held that chief use or even sole use of an article does not make that article a part for tariff purposes. To be so classifiable the article must serve a useful function in relation to the main article with which it is used so as to contribute to the safe and efficient operation of that article. See *Gallahger and Ascher Co. v. United States,* 52 CCPA 11, C.A.D. 849 (1964), and *Beacon Cycle, supra.*

In *Gallagher,* auxiliary heaters dedicated for use in VWs were held to be parts of automobiles even though a VW could and did operate without the heater and the heater bore no relation to the starting and running of the car. The court found that the heater "* * * contributed to the safe and efficient operation of the car in frigid temperatures in relation to the *comfort of its occupants* and in aid of the *indispensable safety factor* of vision by assisting in the removal of ice from the windshield * * *" (Emphasis added). In *Beacon,* the receiver/headlight was found to contribute to the safe and efficient operation of a bicycle because it illuminated the roadway and warned motorists of the rider's presence. The court found that the radio portion of the unit "* * * neither detract(ed) from nor prevent(ed) the entirety's usefulness as a bicycle part * * * which contribute(d) to its safe and efficient operation." While neither of the cited cases concerned aircraft parts, they appear to represent the court's current views on the issue of parts in general.

This position was stated administratively in T.D. 78-489, in which certain wide angle bicycle reflectors, specially designed for use as parts of bicycles in accordance with mandatory Federal bicycle regulations, were held to be classifiable as bicycle parts, in item

732.36, TSUS. These articles were found to contribute to the sa
and efficient operation of the bicycle by permitting night ridi
Likewise, in a letter dated July 12, 1974 (433.3/034064), automob
tractor-trailer rubber splash guards, found to be mandatory in
least 34 States, where held to be classifiable as parts, in it
692.27, TSUS.

Even though the various subassemblies are modular, we beli
their unique interaction with one another as constituent com
nents of the entire system make them classifiable as a single a
cle of commerce. The public address and oxygen control features
this system are safety critical and necessarily aid both the safe a
efficient operation of the aircraft. We note that Federal Aviat
Administration Regulations (14 CFR 121.318, 121.327-333) ma
this apparatus mandatory on passenger aircraft of the type
volved here. The fact that the attendant call, overhead lighti
and audio/visual entertainment features of this system augm
passenger comfort, and do not in any way control or relate to
operation of the aircraft *per se* does not, in view of the cited le
and administrative authorities, make the entire system and les
"part" for tariff purposes. In making this determination, we h
taken into consideration the broad statement of Congressional p
pose, in enacting the Civil Aircraft Agreement (via the Tr
Agreements Act of 1979), to promote a more free and unenc
bered trade in civil aircraft.

Holding: The aircraft passenger entertainment/service syste
properly classifiable under the tariff provision for other part
aircraft, in item 694.61, TSUS, dutiable at the rate of 3.8 perc
ad valorem, or in item 694.62, TSUS, entitled to entry free of d
if certified for use in civil aircraft.

(C.S.D. 83-45)

This ruling holds that operations described as "cold staging"
"hot staging" and related repair and replacement performed u
imported equipment are tests and/or reviews within the cont
plation of item 864.30, TSUS, and eligible for temporary free
mission under bond under that provision, provided all other
quirements are complied with. The operation described as "gat
ing" is not considered review or study of the imported articles
of the documents, containers, and information appearing on
containers in which the imported articles are shipped.

Date: January 11, 19
File: CON-9-CO:R:CD
21443

Issue: A company designs, develops, and manufactures data p
essing and business equipment, and related supplies in resea
engineering, and manufacturing centers located in 13 countries
cluding the United States. In connection with this business,

company engineers and manufactures computer systems of various sizes, including main frames and peripherals, and also secures peripheral products from other original equipment manufacturers. The company, for a number of reasons, desires to establish a "staging center" in the United States where each of the components of a computer system may be gathered, inspected, and tested for conformance to the customer's order prior to delivery. The issue presented is whether such an operation is within the contemplation of Schedule 8, Part 5C, Tariff Schedules of the United States (TSUS), the temporary importation under bond (TIB) provision.

Facts: It is stated that the staging center does not replace existing company manufacturing, quality control, warehouse, or distribution activities; it performs functions which cannot be performed by existing company facilities. The intended role of the staging center is as a place where each component of an individual customer ordered computer system may be gathered, inspected, and tested for conformance to the customer's specifications prior to delivery to the customer's site.

Prior to staging, the sequence of product movement is as follows. An order for a computer system is formally initiated by the filing of a customer purchase order for the required main frame and the particular peripheral products appropriate to the customer's requirements. Many individual computer system components may be ordered with various options added; such options are also specified in the customer's purchase order. In addition, some customers give further specifications which must be met by the equipment ordered.

Once a customer order has been received and accepted, specific computer system components are assigned to the customer order. In the case of main frames and all major peripheral items, the assignment is done by component serial number, at the manufacturing facility or warehouse in which the particular components are located.

After assignment by serial number to customer order, the particular components are shipped to the staging center. The inquirer emphasizes the fact that computer system components will not be shipped to the staging center until after they have been assigned by serial number to a particular customer purchase order, and that the existence of the staging center is neither an essential element of, nor an incident to, product distribution.

After arrival at the staging center, designated main frames and peripherals from domestic and overseas plants or warehouses will be subjected to one or more operations at the staging center depending upon the nature of the particular components assembled for a specific customer order. These operations are described as "gathering," "cold staging," "hot staging," and repair or replacement of defective, damaged, or non-specified components, subassemblies thereof, and parts of either. The designation of particular operations for individual components will be based upon experience gained from the operation of the staging center, as well as from field reports reflecting the quality of the components of computer systems at the time of installation at the overseas customer's premises.

The first operation is gathering. All of the components entering the staging center from the company's plants and warehouses, as well as from other original equipment manufacturers, will be physically segregated within the center according to individual customer orders. Each container will be examined for any evidence of damage resulting from shipment; accompanying invoices and bills of lading will be reviewed so that the styles and serial numbers of the equipment can be compared with the corresponding information set forth on the containers in which that equipment wa shipped to the center. Any discrepancy between the particular item ordered by the customer, the bill of lading, and the articles actually received at the staging center will be noted; appropriate actio to secure replacements for damaged or missing equipment and fo incorrect components will be taken at this time.

The second operation is cold staging. After gathering has bee completed, selected components of each computer system will b cold staged. Components selected for staging will generally consi of those components supplied by other original equipment man facturers, as well as products made by the company which consi of more than a single unit, and those components which experien indicates should be examined closely. These items will be unpack and their style, serial number, and ancillary equipment verifi against the relevant documents. Connecting cables and cont units will be visually inspected to insure that they are of the c rect style and, in the case of cables, of proper length and fitt with appropriate connectors for use in the particular configurati ordered by the customer. Any evidence of physical damage to equipment which is revealed by visual inspection, or any equ ment not in conformity with the customer order and other do ments, will be subject of appropriate repair or replacement acti as described below.

The third operation is hot staging. Hot staging of designa components for computer systems consists of five major st known as "staging cycles"; (1) an out-of-box audit, (2) a CPU sta alone test, (3) the testing of peripherals, (4) a CPU and periphe test, and (5) final bench mark testing.

(1) An out-of-box audit consists of a visual inspection of equipment after it has been unpacked from the shipping cont ers. All exterior access panels are removed from the equipm and each unit is inspected visually for physical damage, prope sertion, cabling, securing of modules within cabinets, and comp ness of the equipment. Documents are reviewed to insure cor ance with company and customer specifications.

(2) The CPU (central processor unit) stand-alone test is the initial functional test of the system. None of the system peripherals are connected, but the CPU is exercised with company and customer test programs, and subjected to a shake test and margin testing.

(3) System peripherals are pretested to the maximum extent possible on a captive host system or a pretested CPU. In general, those peripherals which are necessary for minimum system operation, including disk pack controls, printers, and magnetic tape units, will be tested in this manner.

(4) The CPU and its assigned peripherals are then tested after connecting the CPU to those peripherals. Generally, this testing takes place in seven stages, and involves extensive exercising of the system as a whole.

(5) The final bench mark testing, a long duration test, exercises the hardware in an environment similar to customer conditions.

The final operation is repair and replacement. Where, in the course of gathering, cold staging, and hot staging, components, subassemblies, or other parts of the system are found to be defective, damaged, or not to order, the staging center will correct the deficiencies as follows:

(1) Missing components, etc., will be ordered from the manufacturing location or parts depot and attached to the equipment or added to the order, as appropriate.

(2) Damaged or defective items will be reparied at the staging center or replaced with new parts ordered as above.

(3) Components, etc., which are not in accordance with the customer order will be removed or replaced, as necessary.

(4) Equipment damaged beyond the repair capabilities of the staging center will be returned to the manufacturing plant if its value so warrants.

(5) All components, etc., if imported, and whether defective or not to order, will be exported or destroyed under Customs supervision, depending upon relative value.

Upon completion of gathering, cold staging, hot staging, and any necessary repairs or replacements, the staged system will be prepared for shipment to the customer, including any necessary repacking.

It is estimated that 35 to 55 systems will be staged each month, and it is believed that each system will remain in the staging center for one to two weeks after all components of a system have been gathered. A flowchart illustrating the staging center operations has been submitted.

Law and analysis: The temporary importation under bond provisions are found in Schedule 8, Part 5C, TSUS. That part contains a number of TIB provisions but the only ones which appear applicable to the proposed operation are item 864.05, TSUS, and item 864.30, TSUS.

Item 864.05, TSUS, provides for:

> Articles to be repaired, altered or processed (including processes which result in articles manufactured or produced in the United States).

Item 864.30, TSUS, provides for:

> Articles intended solely for testing, experimental, or review purposes, including plans, specifications, drawings, blueprints, photographs, and similar articles for use in connection with experiments or for study.

The first of the TIB provisions was incorporated in chapter 35, Act of February 1869 (15 Stat. 671), which provided for the temporary free importation under bond of "machinery imported for repair." Then, as now, the intent of these provisions is the promotion of the expenditure of American labor in confining the benefits of free entry under bond to articles which would not seriously interfere with domestic industries. Over the years, the TIB privileges have been extended and expanded to a number of articles with, however, certain reservations and conditions, most of which appear in the Headnotes to Schedule 8, Part 5C, TSUS.

The inquirer submits that there should be no doubt that all components imported into the staging center which are hot staged have been subjected to testing within the meaning of item 864.30 and that any imported components which are repaired, or otherwise altered by the replacement of defective or nonconforming parts or subassemblies are entitled to enter under item 864.05. We agree. We would add in this respect, that the Customs Service has also ruled that parts for an article entered under item 864.30 are entitled to entry under item 864.30 when imported after the entry of the principal article if necessary for the experimental use of the principal article.

The inquirer acknowledges that the imported components which have been gathered and cold staged stand in a somewhat different position than those components which have been either repaired or otherwise altered or subjected to hot staging and, thereby, tested.

It is conceded that neither gathering nor cold staging approaches "testing" on the same level as does hot staging; nevertheless, it is submitted that from the literal language of the statute item 864.30 is not limited to the performance of ritualized testing operations upon imported equipment, but also extends to cover less rigorous procedures so long as they are designed to yield information about the imported articles which was not known prior to completion of the procedures. It is suggested that the broad language of the statute, and the use of the terms "review" and "study" include the gathering and cold staging operations, in which imported merchandise is inspected for the presence of any physical damage, is literally reviewed to determine any need for repair, replacement, or alteration of component parts, and studied to ascertain whether the imported merchandise conforms to the importer's and customer's specifications.

In a separate but associated issue, the inquirer, concluding that all articles are entitled to admission under item 864.05 or 864.30, notes that at the time of importation it is not known which articles will require repair, alteration, or processing as opposed to only review or testing. It is suggested that the proposed importations of computer system components are classifiable under both item 864.05 and 864.30, TSUS, and that each such shipment may be entered under cover of a single entry and solitary temporary importation bond, notwithstanding the applicability of the two itemized provisions in Schedule 8, Part 5C, TSUS.

Prior to the Customs Simplification Act of 1953, section 308(4) of the Tariff Act of 1930 (the predecessor of item 864.30, TSUS) provided for the temporary admission free of duty under bond for "articles intended solely for experimental purposes. . . ." Subsection (c) of section 10 of the Customs Simplification Act of 1953 amended section 308(4) to include articles intended for testing or reviewing purposes, including blueprints, plans, specifications, and other similar articles. Section 308(4) and, subsequently item 864.30, have remained substantively unchanged to the present time.

Review of the legislative history of the 1953 act discloses scant information concerning the intent of Congress in amending section 308(4). House Report No. 760 (to accompany H.R. 5877), 83rd Congress, 1st Session, Customs Simplification Act of 1953, July 9, 1953, notes at page 5, that "Section 10 extends temporary free importation under bond to filled containers, and blueprints, plans, and other technical materials." It is stated at page 7 of the same report that "Section 308(4) of the Tariff Act provides for temporary free entry bond of articles for experimental purposes. Subsection (c) of section 10 amends section 308(4) to include articles intended for testing or review purposes, including blueprints, plans, specifications, and other similar articles."

To ascertain the legislative intent is the master rule of construction. *United States v. Clay Adams Co., Inc.*, 20 C.C.P.A. 285, T.D. 46078. The courts, particularly in cases involving Customs duties, have sought aid from many different kinds of extrinsic facts, when regarded as safe to do so, in order to determine the legislative intent. *Sears, Roebuck & Co. v. United States*, C.A.D. 11, at page 167.

The pertinent question here is the intended meaning of the works "review" and "study" in item 864.30, TSUS. Tariff provisions are used in their known commercial sense which, in the absence of evidence to the contrary, is presumed to be the same as the common meaning. *Nomura (America) Corp. v. United States*, C.D. 3820, at page 527, affirmed C.A.D. 1007. We are not aware of a commercial meaning for either of the words and presume them to be used in their common meaning.

Where words have both broad and narrow common meanings resort to extrinsic aids is proper. *Sears, Roebuck & Co., v. United States, supra. Webster's Third New International Dictionary* (1971) lists eight definitions, some in several senses, for the noun "review." Those definitions include—1: A looking over or examination with a view to amendment or improvement;—4: An act of inspecting or examining;—7a: A second or repeated view.

The same dictionary lists eight definitions, some in several senses, for the noun "study." Those definitions include—2a: The application of the mental faculties to the acquisition of knowledge—b: such application of the mind in a particular field or to a specific subject matter. Other standard dictionaries are in accordance as to both words.

Item 864.30, TSUS, has always been given a rather broad interpretation by the Customs Service and the word "review" was interpreted broadly enough in a 1969 decision to encompass within item 864.30 a model made of wood, plastic, and glass representing a futuristic city under the sea which was prepared for the purpose of stimulating the imagination of architects. Other articles that have been admitted under this section include architects' drawings for information and review, and foreign films entered for the purpose of studying new techniques and advances in such films in comparison with United States films.

In all of these cases the review of the imported articles was visual. We conclude that cold staging, which appears essentially to be an unpacking and visual inspection of selected components, is a "review" within the common meaning of that word and within the meaning of item 864.30, TSUS.

We cannot agree that the first stage of the proposed operation, gathering, is either a review or study. Gathering, as previously described, appears essentially to be the segregation of packed components, etc., of an individual system and a review of shipping documents and the customer order for comparison with information appearing on the shipping containers.

Item 864.30, TSUS, is available for articles that are to be reviewed or studied. If our understanding of the gathering operation is correct there is no review or study of the articles (*e.g.* the components); there is rather a review or study of the shipping documents and shipping containers relating to the particular components. It is our opinion that this "review" or "study" is too remote from the articles themselves to constitute a "review" or "study" of those articles within the contemplation of item 864.30, TSUS.

With respect to the entry of components under more than one TIB provision but on a single entry, there is no objection to this procedure when an article is entitled to entry under multiple provisions due to the uses that the article will be put to while in the United States.

As mentioned previously, in the instant case, excepting the gathering operation, it is our opinion that the articles would be entitled to entry under item 864.30, TSUS, including repair or replacement parts imported after the entry of the principal article if necessary for the test or review of the principal article, and that entry under multiple provisions would be unnecessary.

Holding: Operations as described above, known as "cold staging" and "hot staging" and related repair and replacement, are tests and/or reviews within the contemplation of item 864.30, TSUS, and eligible for temporary free admission under bond under that provision provided all other requirements are complied with. The operation described as "gathering," consisting of physical segregation of packing containers related to an individual order and examination of the containers, shipping documents, and customer order to determine that all system components have been received and are in good order is not review or study of the imported articles but of the documents, containers, and information appearing on the containers in which the imported articles are shipped. While these data may relate to the articles imported, reconciliation of shipping documents with order documents and routine external examination of shipping containers for evidence of damage is so remotely incidental to the purpose of the importation, which is said to be testing and review to assure delivery of a functional system to the customer, as to be beyond the contemplation of item 864.30, TSUS.

(C.S.D. 83-46)

This ruling holds that two or more transactions which might give rise to a transaction value, the transaction to which the phrase "when sold for exportation to the United States" refers is the transaction which most directly causes the merchandise to be exported to the United States.

Date: January 21, 1983
File: CLA-2 CO:R:CV:V
542928 BLS
TAA #57

This is in reference to your letters dated September 20 and October 8, 1982, concerning the above-captioned matter. You seek a ruling with regard to (1) the proper basis of appraisement of an imported cooking apparatus, and (2) the method of computing the 35 percent eligibility requirement for purposes of determining whether the apparatus qualifies for duty-free treatment under the Generalized System of Preferences (GSP).

Your client, a British Virgin Islands Corporation ("VI"), is the owner of certain United States patents of cooking apparatus which is operated by electricity and which simultaneously cooks a number of food products suitable for sale by restaurants and fast food outlets or on occasions such as sporting events.

VI proposes to cause the machines to be manufactured in a Far Eastern country, such as Singapore or Hong Kong, by an independent unrelated company according to VI's specifications. Such specifications and manufacture would be for the stated purpose of the exportation of the machines from the Far Eastern country in which manufactured and their importation into the United States. It is probable that in most instances, the machines will be shipped directly from the independent manufacturer's plant to the United States branch of a related Australian corporation ("Branch"), in accordance with VI's instructions. This importation would result from a sale of the apparatus from VI to Branch. Branch in turn will adopt a policy of not reselling the machines but instead will lease them to various users for rental payments which will be partially fixed and partially contingent upon the utilization of the cooking apparatus. VI's price to Branch will similarly be partially fixed and partially contingent upon a receipt of rental income by Branch in excess of stated cumulative amounts.

For example, a machine might be manfactured in Singapore at a cost of $400 and sold by VI to Branch for $950. However, the contract of sale would further provide that if at any time during the 10 years following the sale the cumulative rentals received by Branch for the machine exceeded $2,000, then 50 percent of such excess rentals would become an additional part of the purchase price payable at that time by Branch to VI.

You have also telephonically advised that the cooking apparatus will be manufactured in accordance with U.S. electrical requirements, and could not be used in Singapore or Hong Kong without changing or modifying the heating elements, which constitute a substantial undertaking. Further, to use the machines in a country other than United States would violate the patent rights of the owners of the foreign patents, since your client holds only the U.S. patent rights.

Transaction value, the preferential basis of appraisement under the Trade Agreements Act of 1979 ("TAA"), is generally defined as the price actually paid or payable for the merchandise *when sold for exportation to the United States*, plus certain specified additions (emphasis added). Section 402(b)(1).

Included among these additions is

> "(E) The proceeds of any subsequent resale, disposal, or use of the imported merchandise that accrue, directly or indirectly, to the seller."

Section 152.103(b)(2), Customs Regulations, provides in general that if sufficient information is not available to establish any of the additions to the price actually paid or payable, the transaction value will be treated as one that cannot be determined.

Under prior case law, it was possible to use as the sale for exportation to the United States for purposes of determining statutory export value a sale from a foreign seller to a foreign buyer, who in turn sold the merchandise to a United States importer. The evidence, however, had to establish that the merchandise was effectively destined for exportation to the United States, at the time of the first sale. In other words, there had to be appropriate controls to prevent diversion of the merchandise into a foreign country.

Export value looked to a freely offered price to all purchasers for exportation to the United States or to a price that fairly reflected the export market value of the merchandise. Transaction value under the TAA does not require a price freely offered to all or a price that fairly reflects any market value. Accordingly, the laws differ conceptually and in their operation. Terms such as "freely sold . . . for exportation to the United States" and "when sold for exportation to the United States" do not necessarily have the same meaning when applied to the respective statutes in which they appear. Cases decided under the prior law are not, therefore, necessarily precedent under the TAA.

In regard to the TAA, it is the position of the Customs Service that the transaction to which the phrase "when sold for exportation to the United States" refers when there are two or more transactions which might give rise to a transaction value, is the transaction which most directly causes the merchandise to be exported to the United States.

In the circumstances described above, the sale from the manufacturers to VI does not cause the goods to be exported to the United States. The goods are not shipped as a result of this sale. The transaction that most directly causes their actual exportation is the sale from VI to Branch. Therefore, it is this sale to which we must look for a transaction value.

However, an examination of the sale between VI and Branch, with respect to the contingent nature of proceeds due the seller, shows that in this case there is insufficient information to determine within a reasonable period and with reasonable accuracy the extent of such proceeds. Since sufficient information is not available to establish this addition, transaction value cannot be determined. See section 152.102(b)(2), Customs Regulations, *supra*. (Since transaction value is inappropriate for the reasons discussed, there is no need to determine whether the relationship of the parties influences the price.)

Similarly, the facts reflect that there can be no transaction value of identical or similar merchandise (section 402(c)), nor can deductive value (section 402(d)) be the basis of appraisement, since the apparatus is not sold in the United States.

Accordingly, assuming the information is available, the basis of appraisement must be computed value, section 402(e). In general, this value consists of the sum of (a) materials, fabrication, and other processing used in producing the imported machinery; (b) profit and general expenses of the producer (unless inconsistent with other producers of merchandise of the same class or kind in the country of exportation for export to the United States, in which case the usual profit and general expenses shall be used); (c) any assist if not otherwise included; and (d) packing costs. In this regard, if the U.S. patent is transferred free of charge or at reduced cost to the foreign manufacturer in the form of designs, blueprints, etc. necessary to the production of the imported merchandise, then the value of such activity would be dutiable as an assist unless the work was undertaken in the United States. Section 402(h)(1)(A).

If this basis of appraisement cannot be determined, section 402(f), "Value if Other Values Cannot be Determined or Used," must be utilized to determine an appraised value. We suggest that you consult "Customs valuation under the Trade Agreements Act of 1979," previously furnished to you, and the District Director of Customs at the port the merchandise will enter, to determine what information will be necessary to establish computed value.

To qualify for duty-free treatment under the Generalized System of Preferences (GSP), the sum of (1) the cost or value of materials produced in a beneficiary developing country and (2) the direct cost of processing operations or any combination of the two must not be less than 35 percent of the appraised value of the merchandise. (See generally, 19 CFR section 10.171 through section 10.178.)

While we do not have sufficient information to make a determination with regard to the eligibility of the cooking apparatus for duty-free treatment, we would note that the value of the U.S. patents would be included in the direct costs of processing for purposes of determining the 35-percent eligibility criteria only if such patents were considered to be dutiable as assists and therefore were included in the appraised value of the imported machinery. (T.D. 81-282, Federal Register dated November 12, 1981.)

Your attention is also invited to 19 CFR 10.178(b), which provides that general expenses not allocable to the specific merchandise or not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, advertising, etc., and profit are not includable in the direct cost of processing operations.

(C.S.D. 83-47)

This decision holds that, contrary to previous practice, and pursuant to Presidential Proclamation 4711 of January 1, 1980, shrimp flavored chips are classifiable under the *eo nomine* provision for shrimp chips in item 182.49, Tariff Schedules of the United States.

Date: January 29, 1983
File: CLA-2 CO:R:CV:G
068926 LCS

DEAR SIR:

Re: Decision on Application for Further Review of Protest No. 1001-0-006085

This protest was filed on June 18, 1980, against your decision on the classification of "Shrimp Flavored Chips," imported from Japan by (name and location) in the liquidations as follows:

Entry No.	Entry date	Liquidation date
80-203295-9	1/29/80	2/29/80
80-203315-2	2/11/80	4/11/80
80-203620-1	4/15/80	5/16/80

We note that, insofar as Entry No. 80-203295-9 is concerned, this protest is untimely filed, 110 days having expired between the date of liquidation thereof and the date of protest. Accordingly, as to this entry, pursuant to section 174.12(e), Customs Regulations (19 CFR 174.12(e)) and section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), the liquidation has become final and conclusive and the protest is dismissed.

Issues: (1) Are "shrimp chips," a baked snack food product, properly classifiable under the provision for biscuits, cake, cakes, and similar baked products in item 182.20, Tariff Schedules of the United States (TSUS).

(2) Is this product within the scope of the new provision for shrimp chips in item 182.49, TSUS, considering:

a. The existence of a uniform and established practice to classify such merchandise in item 182.20, TSUS;

b. The fact that the new item 182.49, TSUS, derived from the provision for other edible preparations, not specially provided for (nspf), in item 183.05, TSUS;

c. The obvious intent of the negotiators to lower the rate of duty applicable; and

d. The fact that the effect of the reclassification of this product under the new provision in item 182.49, TSUS, is to raise the duties payable by 358 percent; and

(3) Can a new provision supersede a uniform and established practice of classification without prior notice being afforded.

Facts: Pursuant to Presidential Proclamation 4711 of January 4, 1980, implementing (among others) a trade agreement with Indonesia, item 182.49, TSUS, applicable to "shrimp chips" was established as a "carve-out" from the provision for other edible preparations, not specially provided for, in item 183.05, TSUS. The new provision, which became effective on January 1, 1980, to entries, or withdrawals from warehouse, for consumption of merchandise classifiable therein, carried a reduced column 1 rate of duty of 9.3 percent ad valorem with staged rate reductions through 1987.

(Name) has imported (since approximately 1972) a product labeled and sold as "Shrimp Flavored Chips," consisting of enriched wheat flour (processed in Japan from U.S. wheat), rapeseed oil, coconut oil, BHT (a preservative), modified food starch, shrimp, sugar, salt, leavening, monosodium glutamate (MSG), and natural food coloring. The product is baked in rotary ovens at approximately 180-190° centigrade, which results in a light, puffed, fully-prepared snack item, similar in appearance to crinkle-cut french fries.

The product at issue had been classified, pursuant to a conceded uniform and established practice, under the provision for biscuits, cake, cakes, and similar baked products in item 182.20, TSUS, dutiable in January 1980 at the reduced column 1 rate of duty of 2.3 percent ad valorem, subject also to staged rates of duty through 1987 when the products classifiable therein become free of duty.

The product which was the subject of the Indonesian trade concession, resulting in item 182.20, TSUS, is believed typical of similar products also manufactured in and previously imported from China, Holland, Hong Kong, Malaysia, and Taiwan, all of which, generally, have the following characteristics:

> 1. They consist basically of flour or starch (*e.g.*, tapioca flour, potato flour, maize, potato starch, corn starch, and/or wheat flour) and shrimp (ranging from approximately 6 to 20 percent), together with various other ingredients in small amounts, such as baking power, salt, MSG, spices, and/or food coloring;
>
> 2. They are described as being of various shapes/sizes (*e.g.*, sliced wafer-like sections, chips, pellets, and crackers), all of which with the exception of the pellets and crackers (irregular pieces) were approximately 1/16 of an inch in thickness;
>
> 3. They may be colored or uncolored;
>
> 4. They are imported uncooked and require deep frying prior to consumption; and
>
> 5. They become light, puffy snack-type finger foods after being prepared.

Headquarters consistently has held these products to be classifiable under the provision for other edible preparations, nspf, in item 183.05 (or corresponding predecessor provisions). It is readily apparent that only two characteristics differentiate the subject product from these which were the subject of the concession. The former is baked and ready to consume and the latter is imported raw or uncooked and is intended to be deep fried prior to consumption.

The protestant relies on these differences and the uniform and established practice of classification in item 182.20, TSUS, admittedly existing prior to the establishment of item 182.49, TSUS, in support of his claim of misclassification of his product under the new provision for shrimp chips in item 182.49, TSUS. Additionally, inherent in this protest is the claim that, since item 182.49, TSUS, derived from 183.05, TSUS, and the obvious intent to the United States Trade Representative to lower the then-existing rate of duty,

is improper (as well as inequitable) to include his product within
e scope of the new provision, thereby raising the duties payable
358 percent.

Law and analysis: Although it is conceded that the product at
sue was the subject of a uniform and established practice of clas-
fication under the provision for biscuits, cake, cakes, and similar
aked articles in item 182.20, TSUS, examination of that practice—
lthough in no way determinative of the resolution of the instant
rotests—leads us to the conclusion that the initial and all subse-
uent classifications under that provision were erroneous; however,
he establishment of the practice and subsequent following thereof,
n effect, cures the defect and would, under ordinary circum-
tances, not be changed without following the procedures applica-
ble as set forth in Part 177, Customs Regulations (19 CFR 177).
Since this is not determinative of the resolution of the issues raised in this protest, we will not extensively elaborate on this issue. Suffice to note that the instant merchandise is a snack-type food not commonly or commercially known as a baked product similar to biscuits, cake, or cakes. It would not normally be displayed or sold in the bakery section of a grocery store or, for that matter, in a bakery; rather, it would be found grouped with other similar products such as potato chips, tortilla chips, cheese puffs, etc. Even though baked and containing flour, it is not "similar" in content, use, marketing, and common or commercial perception to biscuits, cake, cakes, and similar baked products, such as wafers, cookies, etc., traditionally considered to be the products of bakeries and the intendment of this and predecessor provisions (*e.g.*, paragraph 733, Tariff Act of 1930, as amended). CIE 1665/67, August 23, 1957, TC 464.122, August 21, 1957, noted.

Insofar as the common or commercial understanding of the term "chip" is concerned, both the instant product and that which was intended to be covered by item 182.49, TSUS, clearly fall within the scope of the definition

> *1. b: a small piece of food (chocolate): as (1) slice of cooked or uncooked food (oranges); esp: potato chip (2) French fry* [emphasis supplied.] *Webster's Third New International Dictionary* (1976)

In the context presented, we perceive no apparent difference between the common or commercial perception of this term. It is a well-established principal of Customs law that, absent a clear legislative intent to the contrary, the terms used in tariff status are to be construed in accordance with their common or commercial meanings, which are presumed to be the same. *Meyer & Lange v. United States,* 6 Cust. Ct. Appls. 181, T.D. 35436 (1915); *Floral Arts Studios v. United States,* 46 CCPA 21, C.A.D. 690 (1958); *United States v. C. J. Tower & Sons,* 48 CCPA 87, C.A.D. 770 (1961).

Moreover, an unqualified *eo nomine* provision, such as the prov
sion at issue herein for shrimp chips in item 182.49, TSUS, includ
all forms of the article, absent contrary legislative intent, judici
decision, or subsequent administrative practice. *Nootka Packin*
Co. v. United States, 22 CCPA 464, T.D. 47464 (1935); *Crosse*
Blackwell Co. v. United States, 36 CCPA 33, C.A.D. 393 (1948) an
cases cited; *T. M. Duche v. United States,* 44 CCPA 60, C.A.D. 63
(1957); *C. J. Tower & Sons v. United States,* 30 Cust. Ct. 235, C.I
1526 (1953). Therefore, despite the existence of a prior uniform an
established practice to the contrary, the new provision for shrim
chips in item 182.49, TSUS, an unqualified *eo nomine* provision, en
compasses within its scope all forms of the described produc
whether finished or unfinished, or whether baked or fried. Genera
Headnote 10(h), TSUS, also noted.

Further the clear, unambiguous language of the *eo nomine* prov
sion for shrimp chips requires its application without resort to th
intent of the negotiators. *L. Oppleman, Inc.* v. *United States,* 1
Cust. Ct. 322, C.D. 775 (1943), aff'd 31 CCPA 183, C.A.D. 270 (1944
The clear intent of the negotiators and the President in grantin
the concession was to create a new tariff item with a specific rat
of duty applicable to the Indonesian product under negotiation an
to lower the rate of duty previously applicable thereto. It is incon
sequential (albeit unfortunate and manifestly inequitable) tha
other merchandise, not at the time classifiable in either of the iten
numbers directly involved in the negotiations (although by mis
take), is adversely affected; however, the language used is clear an
unequivocal and includes within its scope the instant merchandise

Section 350, Special and Administrative Provisions (Titles III an
IV), Tariff Act of 1930, as amended, together with various provi
sions of the Tariff Act of 1974, empowers the President "to ente
into foreign trade agreements with foreign governments or instru
mentalities" and "to proclaim such modifications of existing dutie
and other import restrictions * * * of existing Customs * * * treat
ment of any article * * *." That Presidential Proclamation 4711 o
January 4, 1980, clearly was within the powers granted by Con
gress to the President under the various tariff act is unassailable
Therein, he created an unqualified *eo nomine* provision to effectu
ate the concession granted; however, as enacted, the provision encompasses merchandise which was previously misclassified in another provision, thereby increasing the duties applicable.

Section 350(a)(2)(A) of the above-cited act provides that "[n]o proc-
lamation * * * shall be made * * * [i]ncreasing by more than 50 per
centum any rate of duty existing on July 1, 1934." Paragraph 733
Tariff Act of 1930, as amended, the predecessor provision to item
182.20, TSUS, carried at that time a rate of duty of 30 percent ad
valorem. Accordingly, even if the increase in duty imposed on protestant's merchandise were to be considered a determinative factor
(which, as discussed above, it is not), it is readily obvious that the

increase in duties (6.7 percent=9.3−2.6) constitutes less than ½ the permissable increase of 15 percent (50 percent of 30 percent) under this provision.

Insofar as whether the Customs Service was required to provide prior notice to the public generally (or to this importer specifically), section 315(d) of the above-cited act requires 30 days prior notice of changes in practice by administrative ruling (except antidumping rulings) by appropriate publication; however, since the change involved herein resulted not from an administrative ruling or procedure, but rather as a result of a change in the law, this requirement does not apply. In *Westergaard, Berg-Johnsen Co. (Chas. H. Timm Co., Inc.)* v. *United States*, 17 Cust. Ct. 1, C.D. 1009 (1946), the court stated:

> From the hearings on H.R. 6738 (ultimately enacted as the Tariff Act of 1930) before the Ways and Means Committee of the House of Representatives (75th Cong., 1st Sess.) * * * [*this provision* [*Sec. 315*] *would not*, of course, *apply in the event of a change in practice made necessary* by a judicial decision or *by a proclamation made by the President under any provision of law*. [Emphasis provided]

Holding: The subject merchandise, previously misclassified under the provision for biscuits, cake, cakes, and similar baked articles in item 182.20, TSUS, and the subject of a uniform and established practice of classification therein, was properly classified under the *eo nomine* provision for shrimp chips in item 182.49, TSUS, promulgated by Presidential Proclamation 4711 of January 4, 1980, effective on or after January 1, 1980, to entries, or withdrawals from warehouse, for consumption on or after that date. Accordingly, you are directed to deny the protest in full.

A copy of this decision should be furnished to the protestant, as well as to counsel, (Name and location).

(C.S.D. 83-48)

This ruling holds that articles brought to the United States and admitted into a foreign-trade zone are not at that time subject to the Customs laws of the United States which would include Customs country of origin marking requirements, (19 U.S.C. 81c).

Date: February 4, 1983
File: FOR-1-CO:R:CD:D
215518 RB

Issue: Whether canned merchandise (foodstuffs) may be brought to the United States for admission into a foreign-trade zone without the cans having been marked with their country of origin at the time of admission thereto?

Facts: Canned foodstuffs, specifically mushrooms, shipped to the United States from the Peoples Republic of China and Taiwan, are admitted into a foreign-trade zone for storage and will ultimately be withdrawn therefrom upon sale to grocery retailers who will in turn sell them to the general public.

Law and analysis: Generally speaking, all articles of foreign origin brought to the United States must be properly marked with their country of origin (19 U.S.C. 1304). Nevertheless, when articles are brought to the United States and admitted into a foreign-trade zone, they are not at that time subject to the Customs laws of the United States which would of course also include Customs marking requirements (19 U.S.C. 81c).

Holding: The answer to the issue presented in this case is yes.

(C.S.D. 83-49)

This ruling holds that electricity generated in a foreign-trade zone (FTZ) by means of fuel produced in the FTZ under a fact situation similar to that in C.D. 4777 may be transmitted into the Customs territory of the United States without liability for entry or duty on the imported fuel source used to produce the electricity. The following regulations and rulings are cited: 19 U.S.C. 81c, C.S.D. 79-418, C.D. 4777, and 15 CFR 400.807.

Date: February 8, 1983
File: FOR-1-CO:R:CD:D
215059 L

Issue: May electricity generated in a foreign-trade zone (FTZ) by means of fuel produced in the FTZ be transmitted into the Customs territory of the United States without duty consequences?

Facts: A domestic company proposes to construct a combined steam and electric generating facility in a foreign-trade zone to produce steam and electricity for use in its FTZ operations. The facility will be constructed to insure that sufficient electricity is generated to meet the maximum surge anticipated and to enable the production of the requisite quantities of steam.

As this will result in excess capacity at times, it is desired to sell any excess electricity to a local electric utility for consumption in the Customs territory of the United States.

It is anticipated that the fuel to run the facility will be supplied from petroleum products, produced in the FTZ.

Law and analysis: General Headnote 5 to the Tariff Schedules of the United States (TSUS) provides, among other things, that electricity is an intangible and not subject to the TSUS upon importation into the Customs territory of the United States. It would appear clear that electricity transmitted from a FTZ to Customs territory would not be subject to the TSUS anymore than electricity from a foreign country transmitted to the Customs territory would be.

The underlying issue, which is somewhat more difficult of resolution, relates to the status of the fuel used to produce the electricity in the FTZ.

While not so stated, it is our understanding that the fuel used to generate the electricity will be produced in the FTZ from domestic or foreign crude oil, or some combination of domestic and foreign crude oil.

Equipment and supplies brought into a FTZ for use by the zone operator or user, or their employees, such as capital equipment, food to be eaten in the zone, and fuel which does not become part of a zone product, are not considered to be "merchandise" within the meaning of 19 U.S.C. 81c and do not have zone status. See, generally, C.S.D. 79-418(LD 79-0302).

Normally, if such equipment or supplies are imported they cannot be admitted into a FTZ without first being entered for consumption. Equipment and supplies which are produced in a FTZ from imported material and consumed in the FTZ are considered to have entered the Customs territory and must be entered for consumption, except for certain merchandise the subject of *Hawaiian Independent Refinery v. United States*, 81 Cust. Ct. 117, C.D. 4777 (1978). The ruling in C.D. 4777 has been limited to the fact situation in that case by C.S.D. 79-418.

The material that will be brought into the FTZ and ultimately be consumed is a part of the original imported crude oil. That portion of the imported crude oil that is consumed as fuel in the generation of electricity is the merchandise that is subject to the imposition of the Customs laws.

It is our position that if an article is brought into a FTZ and ultimately consumed in the manufacturing process as fuel, the article becomes subject to the imposition of the Customs laws when it is brought into the FTZ.

It is also our position that Congress not only imposed definite geographical limits on zones, but also limited the operations that could be performed in a zone without becoming subject to the Customs laws. Consumption of foreign fuel in a FTZ is not an operation that is outside the imposition of the Customs laws. C.S.D. 79-418, at pages 1629 and 1630.

However, the operation as proposed is primarily for the creation and consumption of steam and electricity within the FTZ produced from fuel created and consumed within the FTZ from crude oil admitted to the FTZ. The sale and removal of excess electricity from the zone is incidental to the primary purpose and, in our opinion, falls within the fact situation and therefore the exception in C.D. 4777.

Holding: Electricity produced in a FTZ under a fact situation similar to that in C.D. 4777 may be transmitted into the Customs territory of the United States without liability for entry or duty on the imported fuel source used to produce the electricity. The electricity itself is an intangible and not subject to the TSUS.

This ruling is without prejudice to the authority of the Foreign-Trade Zones Board, pursuant to 15 CFR 400.807, to order the exclusion from the zone of any goods or process of treatment that in its judgment is detrimental to the public interest, health, or safety.

(C.S.D. 83-50)

This ruling holds that self-loading bale wagons are classifiable under the provision for farm wagons in item 666.00, TSUS.

Date: February 10, 1983
File: CLA-2 CO:R:CV:G
070245 JLV

Re: Decision on Application for Further Review of the Protest No. 3304-1-000008, dated April 14, 1981.

The protest and application for further review was timely filed against your action in classifying the Model 70 Bale King under the provision for vehicles not self-propelled, not specially provided for, in item 692.60, Tariff Schedules of the United States (TSUS). The bale wagons were entered for consumption on entry No. 80-105542, dated February 4, 1980, and liquidated on January 23, 1981. The following ruling is our decision on the classification issue.

Issue: Is a self-loading bale wagon classifiable as on-farm equipment for handling of agricultural products in item 666.00, TSUS, or as a vehicle, not self-propelled, in item 692.60, TSUS?

Facts: The bale wagon in issue is designed to be pulled by a tractor. It picks up, loads, and stacks bales of hay and similar baled products. It operates by means of a self-contained hydraulic system driven by a power-take-off (PTO) on a tractor. The bale wagon has no brakes or lights, and may be towed at a maximum speed of 20 miles per hour.

Bales are loaded by a pick-up device hinged to the side of the wagon. Each bale is taken in by the pick-up while the wagon is pulled at approximately 6 miles per hour. When 10 bales have been picked up, an automatic valve is tripped and the bales are loaded onto the deck of the wagon. When the wagon is loaded, it is pulled to a location where the bales are unloaded into a stack without further handling.

Law and analysis: The issue as to whether an article is a farm wagon or a trailer has been considered numerous times. Non-self-propelled vehicles used for moving bales of haystacks appear to be classified under item 666.00, TSUS, in some cases, and under item 692.60, TSUS, in other cases. Item 666.00 provides, in pertinent part, for the following:

> TSUS 666.00
> Machinery for soil preparation * * * farm wagons and carts * * * on-farm equipment for the handling or drying of agricultural or horticultural products, and agricultural and horticultural implements not specially provided for, and parts of any of the foregoing.

Item 692.60 provides for the following:

> TSUS 692.60
> Vehicles (including trailers), not self-propelled, not specially provided for, and parts thereof.

Articles classifiable in item 666.00 are limited by Headnote 1(v), Part 4, Schedule 6, TSUS, and Headnote 1, Subpart C, Part 4, Schedule 6, TSUS, which reads as follows:

> *Headnote 1(v), 6-4:*
> 1. This part does not cover—
>
> * * * * * * *
>
> (v) Articles and parts of articles specifically provided for elsewhere in the schedules.
>
> *Headnote 1, 6-4C:*
> 1. The provisions of item 666.00 for "agricultural and horticultural implements not specially provided for" do not apply to any of the articles provided for in Schedule 6, part 2, part 3 (subparts A through F, inclusive), part 5 (except item 688.43), or part 6, or to any of the articles specially provided for elsewhere in the tariff schedules, but interchangeable agricultural and horticultural implements are classifiable in item 666.00, even if mounted at the time of importation on a tractor provided for in part 6B of this schedule.

Headnote 1, 6-4C, is operable only when the article in question would be classified in 666.00 under the basket language of that provision. The court in *Richard L. Jones v. United States,* 58 Cust. Ct. 165, C.D. 2920 (1967), held that certain cotton wagons, used to transport cotton from a field to a gin were classifiable as farm wagons and carts which are agricultural implements, not specially provided for, in item 666.00, TSUS. The evidence, in that case, was sufficient to establish chief use as an on-farm wagon. Although the court's conclusion appears to classify the cotton wagons under two distinct provisions of item 666.00 (*i.e.*, "farm wagons" and "agricultural implements not specially provided for"), we note that the court went to great lengths to distinquish between a wagon and a trailer. A trailer, according to the definitions cited by the court, appears to be designed for highway travel. A wagon is not so designed. The term "wagon" is not a synonym for "trailer".

Wagons which are designed for and chiefly used in agricultural pursuits are characterized by their off-highway utilitarian nature. These wagons usually do not have lights, brakes, or shock-absorbing suspensions. They are capable of bearing heavy loads over rough terrain, and they are usually incapable of safe speed over 20 miles per hour. Some of these wagons have self-loading features signed to enable a person to pick up agricultural products from field for transport to market or to a storage site.

The bale wagons in issue are specially designed to pick up, sta and transport baled agricultural products from the field to a st age area where the bales are unloaded in a single stack. There d not appear to be any other use for the bale wagons. Their inher design severly limits any use on a highway because the b wagons do not have lights or brakes. Furthermore, the bale wag are 9 feet 3 inches wide (with the pick-up raised) and have a ma mum safe speed of 20 miles per hour.

Various Headquarters rulings have been issued on similar b or hay movers. We held in Ruling Letter of February 8, 1979 (f 057157), that a round bale mover and haystack mover were clas fied in item 692.60, TSUS, because they were precluded from clas fication in item 666.00 by Headnote 1, Subpart C, Part 4, Schedu 6, TSUS. The round bale mover utilized hydraulically power arms to pick up and load bales on to the vehicle. The stack mov utilized a tilting deck and hydraulically powered chains to load a unload stacks of hay from the rear of the vehicle. In Ruling Lett of October 25, 1972 (file 023242), a similar haystack mover was he to be classifiable under the provision for on-farm equipment for t handling of agricultural products, in item 666.00, TSUS. In Rulin Letter of April 28, 1970 (file 003131), a bale mover, designed to pi up or unload stacks of bales, was held to be classified under t provision for agricultural implements not specially provided for, item 666.00, TSUS. The stacker, in that case, was a trailer-lik device with side rails and a hydraulic tilting mechanism. In Rulin Letter of October 6, 1972 (file 023202), a self-loading chain-type fee mover was classified under the provision for on-farm equipment f the handling of agricultural products, in item 666.00, TSUS.

Numerous other Headquarters ruling letters have been reviewe None of the vehicles were self-propelled. All had a limited saf speed, and all lacked springs, lights, and brakes. Many of the vehicles were 8 to 10 feet wide and some had a hydraulic or powe device which operated from a tractor's PTO and enabled on person to load and unload stacks or bales of agricultural products Some of the vehicles used moving chains and a tilting bed to loa and unload; some of the vehicles used a fork-like lifter on the sid and a bed with a full 90 degree lift movement to load or unloa stacks of bales. Some of the vehicles had attachments, such a grain boxes, wire cages, and other devices for containing special agricultural products. However, the decisions appear to be inconsistent and there does not appear to be a clear rationale distinguishing one or the other vehicle as a wagon, as on-farm equipment for handling agricultural products, or as agricultural implements not specially provided for.

Chief use does not appear to be an issue in the case at hand nor did it appear as an issue in the majority of the previous rulings. If a vehicle is used to bring a crop from the field to an area for storage or for marketing, then the use would be for an agricultural pursuit within the scope of item 666.00, TSUS. See *Richard L. Jones, supra* at p. 170

The bale wagons fall within the class or kind of vehicle known as a farm wagon. They are used to transport agricultural products during the harvesting of such products. They are designed to carry heavy loads and to operate efficiently over unpaved surfaces. They are not suitable for highway use. The hydraulic mechanisms and self-loaders do not alter the nature of these vehicles as wagons.

The tariff provision for "farm wagons" is more specific than the provision for "vehicles (including trailers), * * * not specially provided for." Therefore, it is not necessary at this point to determine whether or not they are on-farm equipment for handling agricultural products. Furthermore, Headnote 1, Subpart C, Part 4, Schedule 6, TSUS, is inapplicable because the bale wagons are not classifiable under the provision for agricultural implements not specially provided for in item 666.00, TSUS.

Holding: The bale wagons are classifiable under the provision for farm wagons in item 666.00. The protest should be granted on this basis. A copy of this decision is to be given to the protestant with notice of action on the CF 19.

Effect on other Rulings: To the extent that prior rulings conflict with the decision in this case those rulings are amended in accordance with the rationale of this ruling.

(C.S.D. 83-51)

This ruling holds that duty-free treatment may now be accorded to importations from the Northern Mariana Islands provided that all requirements set forth in the headnotes (General Headnotes and Rules of Interpretation of the Tariff Schedules of the United States) and in the regulations issued thereunder are met. (P.L. 94-241 and General Headnote 3(a), TSUS).

Date: February 22, 1983
File: CLA-2 CO:R:CV:S
071045 FF

This is in reply to your letter dated October 25, 1982, concerning the procedural requirements under General headnote 3(a), Tariff Schedules of the United States (TSUS), for the exportation to the United States of merchandise manufactured in Saipan, Commonwealth of the Northern Mariana Islands. It is your understanding that imports from the Commonwealth of the Northern Mariana Islands are eligible for the same tariff treatment as imports from Guam which are covered by General Headnote 3(a).

Section 603(c) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America (Public Law 94-241), which provides that imports from the Northern Mariana Islands shall be subject to the same treatment as imports from Guam, became effective January 9, 1978, pursuant to Presidential Proclamation 4534 (October 24, 1977, 42 F.R. 56593). Based on the legislative history relating to the Covenant, as set forth in Senate Report 94-433, it is clear that section 603(c) was drafted with General Headnote 3(a), TSUS, specifically in mind. Accordingly, under General Headnote 3(a), which allows duty-free treatment for certain merchandise imported into the United States from Guam and other insular possessions of the United States, duty-free treatment may now be accorded to importations from the Northern Mariana Islands provided that all requirements set forth in the Headnotes and in the regulations issued thereunder are met.

(C.S.D. 83-52)

This ruling is limited to management personnel responsible for deciding whether to order jetfoils. Management personnel of the potential purchaser who are responsible for deciding whether to order jetfoils are not "passengers" for purposes of the coastwise laws and the proposed transportation of them between the drilling platform and the mainland, with the purpose of enabling them to decide whether to order jetfoils from the manufacturer, would not violate the coastwise laws. Several alternative proposed uses of the jetfoil are also ruled on, (46 U.S.C. 65i, 65m, 289 and 883).

Date: February 23, 1983
File: VES-3-15-CO:R:CD:C
105909 PH

This ruling concerns various demonstrations of a non-coastwise-qualified jetfoil vessel off the coast of Alaska and the question of how far the coastwise laws extend on the outer continental shelf.

Issues: 1. May a non-coastwise-qualified jetfoil vessel transport passengers and merchandise between a point on or near the coast of Alaska and a drilling platform located more than 200 miles from the coast of Alaska?

2. May a non-coastwise-qualified jetfoil vessel transport the employees of a potential purchaser of the jetfoil between the coast of Alaska and a drilling platform off the coast of Alaska as part of a demonstration of the jetfoil?

3. May a non-coastwise-qualified jetfoil vessel transport oil platform workers from Nome, Alaska, to the high seas and back to the point of embarkation, after which the workers would be surveyed

4. May a non-coastwise-qualified jetfoil vessel transport management personnel of a potential purchaser of the jetfoil who are responsible for deciding whether to order jetfoils from the jetfoil

manufacturer between the coast of Alaska and a drilling platform off the coast of Alaska?

Facts: The inquirer represents a United States manufacturer of a jetfoil passenger vessel. The subject of the inquirer's letter is a jetfoil vessel which has lost its privilege to engage in the coastwise trade, under 46 U.S.C. 883, because, although it was manufactured in the United States, it was sold to a foreign corporation and put in service under a foreign flag for approximately 1 year, before being repurchased by the manufacturer because of a default by the purchaser in its financing obligations. We issued a ruling on this jetfoil vessel on April 23, 1983 (VES-3-02-CO:R:CD:C 105587 PH).

The jetfoil under consideration is stated to be " * * * an advance technology marine transport, [which] combines fully submerged foils turbine-driven waterjet propulsion and an automatic control system to transport 250 to 315 passengers at a constant cruise speed of 43 knots * * * with a ride comparable to that of a commercial airliner."

The inquirer states that a potential purchaser is considering use of a jetfoil vessel to transport drilling platform employees to and from a semi-submersible drilling platform in the Navarin Basin of the Bering Sea. The potential purchaser proposes to use the jetfoil under consideration for a period of approximately 4 weeks, extendable to 12 weeks, beginning in July of 1983, to assess the capabilities of jetfoil vessels. The inquirer has since requested by telephone that rather than having the duration of the demonstration limited by time, he would prefer to have the demonstration limited to seven or eight round trips.

The jetfoil would be used to transport the potential purchaser's drilling platform employees between St. Paul Island, Alaska, or another point near the coast of Alaska, and the drilling platform. The jetfoil would make no intermediate stops, except that the inquirer has advised by telephone that in adverse conditions (i.e., weather, tides, larger than normal load) a stop to take on fuel might be made. The jetfoil would be tested for its technical ability effectively to service drilling platforms under adverse weather conditions such as fog, subfreezing temperatures, precipitation, and winds.

The drilling platform to which the jetfoil would travel is located approximately 338 nautical miles from St. Paul Island, Alaska, 345 miles from Hooper Bay, Alaska, and 129 miles from Cape Bezymyannvy, Siberia, the nearest point in Russia. The exact location of the platform is 61 degrees North latitude and 178 degrees West longitude, approximately 25 miles from the territorial boundary with the Union of Soviet Socialist Republics established by the United States-Russian Convention of 1867. The drilling platform is anchored in approximately 137 meters of water.

No drilling platform employee traveling as part of the proposed demonstration would pay any fare, fee, or other consideration for his or her participation. The entire cost of the proposed demonstration would be borne by the possible purchaser and the manufacturer of the jetfoil.

If either the demonstration or permanent service of the vessel is approved, the jetfoil will be converted from its present capacity to a 35-person capacity. This conversion would include the modification of the fuel tanks (permanent modification) and the addition of entertainment systems, food and beverage storage facilities, and sleeper seats (temporary modifications). The inquirer has advised by telephone that the cost of this conversion of the jetfoil for demonstration or permanent use would exceed $1,500,000, of which $1,000,000 would be for permanent modifications. The cost for fuel for the demonstration, also to be shared by the manufacturer and potential purchaser, would be several hundred thousand dollars. In addition, the potential purchaser has leased helicopters from a company related to the manufacturer of the jetfoil for transportation of the potential purchaser's drilling platform employees to and from the well platform during the entire period of the drilling project. The total cost of the demonstration, including conversion of the jetfoil, fuel, and idle time of the helicopters, would be equal to or in excess of $2,000,000.

The inquirer requests rulings as to—(1) whether the proposed demonstration of the jetfoil would violate the coastwise laws; and (2) whether the use of the jetfoil on a permanent basis to transport drilling platform employees and merchandise between a point on or near the coast of Alaska and drilling platforms located more than 200 miles from the coast of Alaska constitutes a violation of the coastwise laws. In addition, the inquirer has telephonically requested a ruling as to whether the jetfoil could be used to transport oil platform workers from Nome, Alaska, to the high seas and back to the point of embarkation. The workers would be surveyed regarding the use of this means of transportation between oil drilling platforms on the outer continental shelf and the mainland. The inquirer has also telephonically requested a ruling as to whether the jetfoil could transport management personnel of the potential purchaser between the drilling platform in the Navarin Basin and the mainland. The management personnel so transported would consist of persons responsible for deciding whether to order jetfoils from the manufacturer. The purpose of transporting these persons would be to assist them in evaluating the jetfoil for the proposed use.

Law and analysis: The coastwise laws (e.g., 46 U.S.C. 65i, 65m 289 and 883) prohibit the transportation of merchandise or passengers between points in the United States embraced within th coastwise laws in any vessel other than a vessel built in and documented under the laws of the United States and owned by a Unite States citizen. Pursuant to 46 U.S.C. 883, a vessel which has acquired the right to engage in the coastwise trade by virtue o having been built in the United States, or documented under th laws of the United States, and which is later sold foreign, in whol or in part, or placed under foreign registry, may not reacquire the right to engage in the coastwise trade. A vessel "passenger," for purposes of the coastwise laws, is defined as "* * * any person carried on a vessel who is not connected with the operation of such vessel, her navigation, ownership, or business." (Section 4.50(b), Customs Regulations.)

Section 4(a) of the Outer Continental Shelf Lands Act of 1953, as amended (43 U.S.C. 1333(a)) (OCSLA), provides, in part, that the laws of the United States are extended to the subsoil and seabed of the outer continental shelf (shelf) and to all installations and other devices permanently or temporarily attached to the seabed which may be erected thereon for the purpose of exploring for, developing, or producing resources therefrom to the same extent as if the shelf were an area of exclusive Federal jurisdiction located within a state.

Treasury Decision 54281(1), publishing an abstract of a Customs decision dated December 11, 1956, stated, in part, that the coastwise laws are extended to mobile rigs during the period they are secured to or submerged onto the seabed of the shelf. Subsequent rulings applied the same principles to drilling platforms, artificial islands, and similar structures.

Thus a drilling platform attached to the seabed of the shelf would be a coastwise point for purposes of the coastwise laws. The inquirer concedes this but contends that a drilling platform in a location such as this, more than 200 miles from the coast of the United States, is beyond the United States shelf. He bases this contention on the terms of the Convention on the Law of the Sea, under which he states that a State's continental shelf would extend 200 miles from shore, but could extend further under specified circumstances. The inquirer concedes that the United States voted against the Convention, but states that the United States has gone on record as stating that overall the Convention is acceptable, particularly the provisions concerning the shelf and other items, although the United States has serious problems with elements of the deep seabed mining provisions. The inquirer suggests that we adopt the framework established by the Convention in defining the United States shelf. If we did so, he suggests, the movement by the jetfoil from a point in Alaska to a drilling platform located more than 200 miles from the coast of the United States would be characterized as a voyage between a coastwise point and an international one rather than between two coastwise points.

We disagree with the inquirer's suggestion that the 200-mile limit for the shelf in the Convention on the Law of the Sea be used to determine the extent of the United States shelf for purposes of the coastwise laws. The first official action by the United States Government claiming jurisdiction over the shelf was Executive Order 9633, September 28, 1945 (59 Stat. 885), in which President Truman ordered that "* * * the natural resources of the subsoil and seabed of the continental shelf beneath the high seas but contiguous to the coasts of the United States [are] declared this day by proclamation to appertain to the United States and to be subject to its jurisdiction and control." At that time, the continental shelf was considered to be that area contiguous to the continent covered by no more than 100 fathoms (600 feet or 200 meters) of water. (See Background to House Report No. 95-590 on the OCSLA Amendments of 1978, 1978 U.S.C.C.A.N. 1463.)

In 1953, to resolve a number of jurisdictional problems that had arisen between the United States Government and the State Governments over which had paramount rights to submerged lands off the coasts of those states (see, e.g., *United States v. California*, 332 U.S. 19 (1947)), Congress passed the Submerged Lands Act of 1953 (67 Stat. 29; 43 U.S.C. 1301, *et seq.*) and the Outer Continental Shelf Lands Act of 1953 (67 Stat. 462; 43 U.S.C. 1331, *et seq.*) (OCSLA). In the OCLSA the term "outer continental shelf" was defined to mean:

> * * * all submerged lands lying seaward and outside of the area of lands beneath navigable waters * * * and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control. (Section 2, 67 Stat. 462; 43 U.S.C. 1331.)

On April 29, 1958, the Convention on the Continental Shelf was opened for signature and, after ratification by the United States, it entered into force in the United States on June 10, 1964 (15 U.S.T. 472; TIAS 5578). In Article 1 of this Convention, the continental shelf is defined as:

> * * * the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas [and] the seabed and subsoil of similar submarine areas adjacent to the coasts of islands.

Because this Convention became effective as law in the Unite States after passage of the OCSLA, it superseded any incompatibl terminology in the latter (*Treasure Salvors Inc., v. Unidentifie Wrecked and Abondoned Sailing Vessel*, 569 F.2d 330, 340 (5th Ci 1978)).

The OCSLA was substantively amended by the Outer Continen tal Shelf Lands Act Amendments of 1978 (92 Stat. 629; 43 U.S.C 1331) (1978 Amendments). The 1978 Amendments did not chang the definition of the outer continental shelf to that provided in th Convention on the Continental Shelf. However, the Deep Seabe Hard Mineral Resources Act of 1980 (94 Stat. 553; 30 U.S.C. 1401, *seq.*) defined continental shelf consistently with the Conventio (See House Report 96-411, Part 1, at 27; 1980 U.S.C.C.A.N. 160 1604.)

Based on the foregoing, we conclude that the United States outer continental shelf extends to "a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas" for purposes of the application of the coastwise laws to the outer continental shelf. Without formal action by the United States Government changing this definition of the outer continental shelf we cannot adopt the 200-mile limit to the outer continental shelf suggested by the inquirer.

The drilling platform under consideration is located in less than 200 meters of water and, furthermore, the operation of the drilling platform at its location is evidence that the "depth of the superjacent waters admits of the exploitation of the natural resources" in the area. Accordingly, the drilling platform under consideration, as well as any other drilling platform located in a similar location, whether or not it is more than 200 miles from the coast of Alaska, is a coastwise point. The transportation of passengers or merchandise from a point on the Alaska mainland to such a point by a non-coastwise qualified vessel, such as the jetfoil, would be prohibited by the coastwise laws.

In interpreting the coastwise laws as applied to the transportation of passengers, we have ruled that the coastwise trade includes the carriage of passengers entirely within territorial waters even though the passengers disembark at their point of original embarkation and the vessel touches no other coastwise point. Transportation of passengers from a point within the United States to the high seas of foreign waters and back to the point of original embarkation is not considered coastwise trade. The territorial waters of the United States do not extend beyond the territorial sea, defined as the belt, 3 nautical miles wide, adjacent to the coast of the United States and seaward of the territorial sea baseline (Treasury Decision 78-440).

With regard to vessel demonstrations, we have ruled that: (1) persons necessary to prepare displays and demonstrations at the next port, (2) official United States Government observers, and (3) persons conducting or receiving training in the use of the vessel, are not passengers for purposes of the coastwise laws. Thus, the transportation of such persons between United States coastwise points in a non-coastwise-qualified vessel is not a violation of the coastwise laws. However, the Customs Service has ruled that the transportation for publicity purposes of civic leaders or television or newspaper personnel between United States points in a non-coastwise-qualified vessel does violate the coastwise laws.

We also have ruled that the use of a vessel solely for the purpose of demonstration, in which persons which are transported on demonstration rides embark and disembark at the same point, is not coastwise trade even if the ride is entirely within territorial waters. Such persons are not considered to be passengers for purposes of the coastwise laws. However, these rulings have been limited to demonstration rides originating and terminating at the same point because the transportation of persons between different points is itself evidence of a purpose other than the demonstration of the vessel.

In this case, the inquirer requests a ruling on the applicability of the coastwise laws to the transportation of the potential purchaser's employees between their place of work, a drilling platform which is a coastwise point (see above), and the coast of Alaska. Although the purpose of the transportation may be to demonstrate the vessel to the potential purchaser, the employees would be transported between coastwise points and would not, themselves, be concerned with the operation, navigation, ownership, or business of the jetfoil. The purpose of the transportation, so far as the employees were concerned, would be to move them to and from their place of work. Accordingly, the potential purchaser's drilling platform employees would be considered passengers for purposes of the coastwise laws and their transportation by the jetfoil as proposed would be prohibited.

The inquirer also requests a ruling on the applicability of the coastwise laws to the transportation of oil platform workers from Nome, Alaska, to the high seas and back to the point of embarkation, after which the workers would be surveyed. Such transportation, a so-called "voyage-to-nowhere," is not considered coastwise trade and would not be prohibited by the coastwise laws.

The inquirer requests a ruling on the applicability of the coastwise laws to the transportation between the drilling platform in the Navarin Basin and the Alaska mainland of management personnel of the potential purchaser who are responsible for deciding whether to order jetfoils from the manufacturer. We have ruled that prospective yacht purchasers who are taken out on "checkout" cruises are not passengers for purposes of the coastwise laws. Analogously, we conclude that management personnel of the potential purchaser who are responsible for deciding whether to order jetfoils are not "passengers" for purposes of the coastwise laws and the proposed transportation of them between the drilling platform and the mainland, with the purpose of enabling them to decide whether to order jetfoils from the manufacturer, would not violate the coastwise laws. This ruling is limited to management personnel responsible for deciding whether to order jetfoils. Management personnel responsible for the operation of the drilling platform, for example, would be considered "passengers" for purposes of the coastwise laws and the proposed transportation of such persons would be prohibited.

Holdings: 1. A non-coastwise-qualified jetfoil vessel may not transport passengers and merchandise between a point on or near the coast of Alaska and a drilling platform located more than 200 miles from the coast of Alaska because the drilling platform is considered to be on the United States outer continental shelf and, therefore, is a coastwise point.

2. A non-coastwise-qualified jetfoil vessel may not transport drilling platform employees of a potential purchaser of the jetfoil between the coast of Alaska and a drilling platform off the coast of Alaska as part of a demonstration of the jetfoil because the employees are considered passengers.

3. A non-coastwise-qualified jetfoil vessel may transport oil platform workers from Nome, Alaska, to the high seas and back to the point of embarkation, after which the workers would be surveyed, without violating the coastwise laws.

4. A non-coastwise-qualified jetfoil vessel may transport management personnel of a potential purchaser of the jetfoil who are responsible for deciding whether to order jetfoils from the jetfoil manufacturer, and who are transported for that purpose, between the coast of Alaska and a drilling platform off the coast of Alaska without violating the coastwise laws because such management personnel are not considered "passengers" for purposes of those laws. Only management personnel responsible for deciding whether to order jetfoils may be so transported.

Effect on Other Rulings

None.

(C.S.D. 83-53)

Amendment to section 4.93(b)(1) and (b)(2) of the Customs Regulations to add Spain to the lists of countries whose registered vessels are entitled to the coastwise privileges of transporting empty cargo vans and certain other instruments of international traffic between U.S. ports.

Date: March 1, 1983
File: VES 3-03 CO:R:CD:C
ADM 9-03
106031 HS

The Customs Service has found, after consideration of information in a diplomatic note dated February 1, 1983, that the State Department obtained from the Government of Spain, that Spain extends coastwise privileges to United States-flag vessels to transport between ports in Spain empty cargo vans, empty lift vans and empty shipping tanks, equipment for use with such articles, empty barges specifically designed for carriage aboard a vessel, empty instruments of international traffic, and stevedoring equipment and material. Accordingly, pursuant to the 6th proviso of 46 U.S.C. 883, action to add Spain to the list of countries in sections 4.93(b)(1) and (b)(2), C.R. is being initiated. Coastwise privileges accorded under section 4.93(a) for articles enumerated in sections 4.93(b)(1) and 4.93(b)(2) are effective as of February 1, 1983.

(C.S.D. 83-54)

This ruling holds that fungible products commingled in storage after manufacture or production and withdrawn therefrom for drawback purposes may be identified against the drawback products or fungible drawback material commingled in the order of their receipt into storage. (Sec. 313, Tariff Act of 1930)

Date: March 4, 1983
File: CO:R:CD:D
215570 RB

Issue: If fungible products are commingled in storage, may withdrawals for drawback purposes be identified against the drawback products commingled therein in the order of their receipts into storage?

Facts: Fungible drawback and nondrawback products are commingled in storage. Withdrawals therefrom are made for domestic consumption as well as for drawback purposes. Under the method of identification as proposed above, claimants never receive greater drawback than would be available under the method of separate storage and specific identification.

Law and analysis: The drawback law as enacted in section 313 Tariff Act of 1930, does not require any particular method of identifying commingled material, leaving the matter to administrativ discretion (see section 313(i), Tariff Act of 1930; article 1020, Customs Regulations of 1931).

In administratively prescribing a method of identification fo drawback, effect should be given to the general purpose underlyin the drawback law. This purpose is to assist American business an labor to compete more effectively in foreign markets by assurin that whatever enters into the cost of doing business in such ma kets is free from the additional cost of U.S. Customs duties. As result, U.S. export trade is facilitated; the balance of trade is i proved; jobs are created; and consequently the general econom thereby benefits (see *e.g., United States v. International Paint C* 35 C.C.P.A. 87, at 90 (1948)). To this end, the drawback law is rem dial in character and should be construed to accomplish the pu poses intended (see *Fenton Co. v. United States*, 14 CCA 277, at 2 (1926)).

The proposed method if approved would fully effectuate the pu pose of the drawback law as described above by permitting dra back while promoting cost effective administrative and accounti procedures, both from the standpoint of Customs and indust This method would not result in greater drawback than that wh would be available under the method of separate storage and s cific identification and as such would be protective of the revenue as that term relates to drawback law.

Notably, the same identification principle involved herein has previously been considered and approved by the Office of the General Counsel, Department of the Treasury, with respect to an analogous drawback issue (see General Counsel memorandum to Assistant Secretary Reed, dated September 1, 1965).

Holding: A method of identification is approved whereby fungible products commingled in storage and withdrawn therefrom for drawback purposes may be identified against the drawback products commingled therein in the order of their receipt into storage. Also, under this method, where fungible articles are commingled in storage after manufacture or production, withdrawals for drawback purposes may be identified against the fungible drawback material used in the manufacture or production thereof in the order of its receipt into commingled material storage.

(C.S.D. 83-55)

This ruling holds that transaction value may exist even though final payment occurs after importation and assembly in the United States. (Sec. 402(b)(3)(A), Tariff Act of 1930 as amended by the Trade Agreements Act (TAA)).

Date: March 4, 1983
File: CLA-2 CO:R:CV:V
542930 MK
TAA #59

This refers to your letter of September 17, 1982, supplemented on November 29, requesting our advice on how certain articles you plan to import will be valued. We have also received comments from the concerned import specialist at Blaine, Washington.

You advise that your company does complete design and supply of all components for chemical plants and pulp and paper systems. The typical transaction between your company and the U.S. importer involves one contract and one total price. In fulfilling the contract, some components will be manufactured in Canada and some will be manufactured in the United States and shipped directly to the job site. Some U.S. articles may be exported to Canada and assembled in the imported product.

The purchasers are end users who are not related to your company, and they do not furnish any assists such as tools or molds.

At a meeting with the concerned import specialist, he discussed a method of valuation which you believe would result in an overstated value and escalated duty cost. He evidently suggested that the lump sum contract price might represent transaction value, the preferred basis of appraisement under the Trade Agreements Act of 1979 (TAA).

Subsequently, the import specialist advised us that, upon reviewing a Headquarters ruling (TAA #28) which involved similar facts he concluded that transaction value would be inappropriate.

That ruling concerned rail cars which were manufactured abroa and imported in partially assembled condition. The contract between the manufacturer and the importer provided that the fina assembly of the vehicles would be performed in the United States and the manufacturer subcontracted that task to a U.S. company The manufacturer also contracted with some American suppliers t provide 42 percent of the vehicle components, to be integrated int the vehicles after importation.

Payments to the manufacturer were to be made on a monthl basis subject to various limitations and conditions and also subjec to the importer's final acceptance of the cars.

Based on the circumstances of the transaction, we concluded tha transaction value could not be used as the basis of appraisemen because there was no price actually paid or payable for the impor ed merchandise when sold for exportation to the United States. W also concluded that since the price of the merchandise included th assembly work done in this country, title to the imported mercha dise did not pass to the importer until after completion of the a sembly work and (it appeared) final acceptance of each car by th importer. There were no sales of identical or similar merchandis for exportation to the U.S. upon which to base transaction valu

Under the reasoning of that ruling, we would reject transactio value for your importations. However, rather than adopting tha view, we have reconsidered our prior ruling. We now believe that more commercially realistic view of the type of transactions co ered by that ruling and those which you describe is that there is sale for exportation to the United States of the imported mercha dise, even though title to the entire article may not pass until som time after importation.

The leading case of *J. L. Wood v. The United States*, C.A.D. 11 (1974), held that the term "sale," for purposes of Customs val ation, has the ordinary meaning of transfer of property from o party to another for consideration.

In these transactions, there is an agreement to purchase whe the merchandise is exported, even though acceptance and fin payment are contingent upon testing or assembly in the U.S. The is a transfer of property for consideration, which consists of mutu promises to sell and to purchase, plus a payment. (The contract y submitted provides for a payment of 10 percent immediately up acceptance of the order and presentation of the invoice, which is fairly standard contract provision). Accordingly, it appears th transaction value is the appropriate basis of appraisement. TA #28 is revoked to the extent that it is inconsistent with this dete mination.

Transaction value is defined by law as the price actually paid or payable *for the imported merchandise* plus, when not included in the price, (1) the packing costs incurred by the buyer, (2) any selling commission incurred by the buyer, (3) the value of any assist, (4) any royalty or license fee related to the imported merchandise that the buyer is required to pay as a condition of the sale, and (5) the proceeds, accruing to the seller, of any subsequent resale, disposal, or use of the imported merchandise.

Presumably, the price of the imported articles includes a proportionate share of your engineering overhead and profit, and only that sum, if identifiable, would be included in transaction value.

In addition, the following amounts are to be disregarded, under transaction value, sec. 402(b)(3)(A), Tariff Act of 1930, as amended by TAA *if identified separately:*

> Any reasonable cost or charge incurred for:
>
> (1) The construction, erection, assembly, maintenance of or the technical assistance provided with respect to, the merchandise after importation into the United States, or
>
> (2) Transportation of the merchandise after such importation.

(The import specialist is aware of these and other statutory exclusions from transaction value, and we will therefore not discuss each of them).

(C.S.D. 83-56)

This ruling holds that transaction value may be appropriate, in the instant case, although the price paid or payable is not quantified at the time of exportation, if there is a fixed formula or methodology for arriving at a specified amount.

Date: March 9, 1983
File: CLA-2 CO:R:CV:V
542975 BLS
TAA #60

Re: Request for Prospective Ruling; Applicability of Transaction Value

This is in reference to your letter dated November 29, 1982, requesting our opinion with regard to the basis of appraisement to be used in a proposed transaction. You described the parties involved as follows:

The Foreign Assembler. Assembler is located in Costa Rica and is owned by several individuals. The majority stockholder of the Assembler is also its Chief Operating Officer ("CEO"). Assembler will perform assembly operations for United States importers. The importers will provide, directly or indirectly, components which have been cut to shape in the United States and which are already assembled in the condition received without further fabrication. It is presumed for purposes of this ruling that the finished product will qualify for the benefits provided by item 807, Tariff Schedules of the United States (TSUS).

The (corp. name). The (corporation name) is an offshore corporation located outside the United States and Costa Rica. It is owned by several individuals: some of the individuals having an ownership interest in (corp.) are the same as the individuals having an ownership interest in Assembler. The majority stockholder and CEO of (corp.) is the same individual holding majority stock ownership in Assembler.

The (corp.) seeks out United States importers who might be interested in the complete 807 program which is offered through Assembler and (corp.). (Corp.) performs services which benefit the importer, Assembler or both parties. Among the services are—

a. Traveling to the United States to confer with importers in order to keep the lines of communication open regarding customers satisfaction;

b. Setting up assembly programs;

c. Checking markets in the United States;

d. Looking for used machinery; and

e. Attending trade shows.

The (corp.) also offers importers the services of Associates (see below).

The CEO of (corp.) is paid directly by (corp.) for the functions referred to above. In addition, (corp.) pays all travel costs associated with the services referred to above. The costs incurred by (corp.) are not charged back to Assembler, and they are not maintained on Assembler's books. (Assembler pays its CEO for running the assembly operation.)

Associates. Associates is a United States corporation which would be under contract to the (corp.). (Corp.) would offer the services of Associates to importers to assist them in their 807 importation program. It is anticipated that importers who utilize the services of Associates would not be experienced in offshore production and/or would not have an import program in place. The services to be performed by Associates would include, but would not be limited to, the following:

a. To assist the importer in determining what type of garments can be made economically by Assembler;

b. To help the importer to determine methods of manufacture, *i.e.*, construction of garments that can be adapted to machinery capability which exists at the factory;

c. To assist the importer in styling the garment to take the best advantage of ultimate retail price, domestic styling trends, and Customs consequences of ornamentation;

d. To help the importer determine the most economical methods of transporting goods both south bound and north bound;

e. To assist in determining the engineered methods of assembly or production of the chosen garments; and

f. To assist the importer in determining its bottom line costs in he garment.

Associates and its affiliated company have been assisting importrs in 807 related operations for several years in connection with mportations from Caribbean countries. The services are directly elated to the importer's position in the transaction, and would be erformed by the importer if the importer had the appropriate peronnel. The services do not affect the actual cost of assembling merchandise produced in the traditional 807 operation.

United States importers. The United States importers are unreated to any other parties referred to herein. These companies will ct as importer of record for merchandise imported for their acount.

It is anticipated that the United States importer will enter into greements with (corp.) and Assembler. The contract with (corp.) will provide for periodic payments by Importer to (corp.) for the ervice rendered by Assembler, and for the services rendered Importer by Associates. The contract with Assembler will provide for weekly advancement of actual labor incurred and a fixed monthly payment for overhead and profit. These payments will closely approximate the engineered standard costs for the particular garments. The engineered standard costs, which include amounts for abor, overhead and profit, are the amounts which appear on the nvoices that accompany the merchandise at the time of importation. These standards will be adjusted prospectively from time to time. Thus, if the efficiency factor of Assembler conforms to engineered standards, the actual amount paid will be almost identical to the invoiced amount. If the efficiency factor is less than the engineered standards, the amount paid for labor will exceed the standard used in computing the invoice, and this amount will be paid by the importer. Regardless of the efficiency factor realized by Assembler, at the time the merchandise is exported, the total labor incurred in the production of the garment will be known by all parties, *i.e.*, Assembler and the importer.

You believe that the merchandise should be appraised under transaction value. Thus, you point out that there is a price paid or payable, *i.e.*, either the invoiced values themselves, which are negotiated prices, or the invoice values plus any additional amounts which may be paid for labor incurred over the engineered standards.

Accordingly, you suggest that the importer can deposit duties based upon the invoiced amount and make periodic deposits, *e.g.*, every 90 days to compensate for any additional labor costs which may have been paid in connection with the production of the imported merchandise during the preceding period. The importer would not be entitled to any refund of duties which may have been paid, based upon an efficiency factor greater than that computed under the engineered standards. Alternatively, transaction value can be fixed at the invoice prices.

In general, transaction value is defined as the price actually paid or payable for imported merchandise when sold for exportation to the United States. The Statement of Administrative Action provides that the price actually paid or payable shall be considered without regard to its method of derivation. It may be the result of discounts or increases, or may be arrived at through some formula, or may be the result of negotiation.

In the instant case, the importer and Assembler are unrelated and therefore there is no question of "the relationship between the parties influencing the price."

However, while there are situations in which standard costs representing transfer prices may establish transaction value (see TAA 25, Headquarters Ruling 542315, dated May 13, 1981), in the instant case the actual amounts paid will not conform to the invoiced amounts unless the efficiency factor of Assembler actually conforms to the engineered standards. Therefore, the invoiced amounts do not represent an agreed upon price, and cannot establish transaction value. Nevertheless, as the Statement of Administrative Action indicates, transaction value may be established although the price paid or payable is not quantified, if there is a fixed formula or methodology foı arriving at a specified amount. In this instance, the invoice price reflects a fixed amount for overhead and profit, and a standard cost estimate for labor. (While actual labor costs are known at the time of exportation, you advised telephonically that the process of invoicing these actual costs prior to exportation is not expedient.) The standard cost estimate for labor, while adjusted periodically to reflect actual costs, is a variable which is not used to effect payment, rather, payment for the merchandise is based on actual costs.

We find that using the invoice price as a base for deposit of estimated duties, with adjustment for duties to be made if labor costs vary from beyond the standard, reconciliation to be made at reasonable intervals, is a fixed methodology under which a price paid or payable may be said to exist. Thus, the price paid or payable is the invoice base "price", adjusted for the actual labor cost incurred whether greater or smaller than the engineered standard costs.

However, based on the facts as stated above, we believe that (corp.) acts as Assembler's agent performing services for Assembler which would ordinarily be performed by Assembler. Accordingly, payment by an importer to (corp.) for those services is, in effect, an indirect payment to Assembler, and, as such, is part of the price paid or payable for the merchandise.

The amount paid by an importer to (corp.) for the service of Associates is not part of the price paid or payable for the merchandise as those services are for the benefit of the importer, not Assembler

The amount paid to (corp.) for services on behalf of Assembler, if his amount can be determined on sufficient information, is to be llocated to the imported merchandise on a reasonable basis, and dded to the direct payments made to Assembler by an importer, to rrive at the price paid or payable, that is, the transaction value of he merchandise.

If the amount cannot be determined on sufficient information, or annot be allocated to the imported merchandise on some reasonale basis, transaction value must be rejected.

We suggest that you advise the District Director of Miami of the rospective transactions, so that you may agree to some method of econciling the cost data and adjustment to estimated duties, if necssary, on a periodic basis.

(C.S.D. 83-57)

This ruling holds that the transaction value method of appraisenent can be reasonably adjusted to permit the agreed-upon purhase price for merchandise imported pursuant to a lease agreenent, with option to buy, to be accepted as representing the price ctually paid or payable, within the meaning of section 402(b) of he TAA.

Date: March 4, 1983
File: CLA-2 CO:R:CV:G
542996 CW

This is in response to your letter of December 16, 1982, in which ou request a ruling concerning the valuation of a "tow crimping machine" which (company name) will be importing from (country) n the near future.

You state that the agreement between the importer and the foreign seller will provide that the importer agrees to pay a monthly rental fee of $1,600 for the machine for a maximum of 6 months. If, during the 6 month period, the importer decides to purchase the machine, the total cost will be $48,000, less rental amounts paid. If the importer decides not to purchase the machine, the total cost will be 6 months' rent ($9,600) and the article will be delivered to the seller's subsidiary in the United States. You inquire as to the proper basis of appraisement for the machine under the Trade Agreements Act of 1979 (TAA) and the actual amount upon which duty would be assessed.

Transaction value, the primary basis of appraisement under the TAA, is defined in section 402(b) as "the price actually paid or payable for the merchandise when sold for exportation to the United States, plus amounts * * *" for certain items not already included in that price. Under circumstances, such as those presented here, in which merchandise is to be imported pursuant to an agreement to lease with an option to purchase, it is our opinion that the merchandise cannot be considered to be "sold for exportation to the

United States," as those words are used in section 402(b). Therefore, transaction value would be eliminated as the basis of appraisement.

The next in order of precedence of the bases of valuation is the transaction value of identical merchandise under section 402(c) of the TAA, or, if that method also cannot be used, the transaction value of similar merchandise (also section 402(c)). If none of these methods can be determined, the merchandise will be appraised on the basis of either deductive value under section 402(d) or computed value under section 402(e), depending upon the preference of the importer. We have enclosed a Customs valuation information sheet which sets forth brief definitions of the foregoing bases of appraisement. On the basis of the information you have provided, it appears that none of the methods of valuation referred to above may be ascertainable with respect to the tow crimping machine.

Assuming that this is the case, section 402(f) of the TAA provides that if the value of imported merchandise cannot be determined under subsections (b) through (e):

> * * * the merchandise shall be appraised for the purposes of this Act on the basis of a value that is derived from the methods set forth in such subsections, with such methods being reasonably adjusted to the extent necessary to arrive at a value.

Pursuant to this authority, we believe that the transaction value method of appraisement can be reasonably adjusted to permit the agreed-upon purchase price for the machine of $48,800 to be accepted as representing the "price actually paid or payable," within the meaning of section 402(b). Thus, we conclude that, under the circumstances described above, the proper * * * dutiable value for the machine would be $48,800.

(C.S.D. 83-58)

This ruling concerns the allocation of aircraft research and development costs allowed over the number of aircraft reasonably anticipated to be produced.

Date: September 15, 1982
File: CLA-2 CO:R:CV:V
542719 MK

The following ruling replies to your petition for reconsideration of our ruling in Internal Advice No. 226-80, on behalf of (corporation name) and (company name), concerning the allocation of aircraft research and development costs.

INTRODUCTION

A. Facts: (Corporation name) (hereinafter, A), an American company, and (company name) (hereinafter, J), an unrelated Japanese company, entered into an agreement dated June 28, 1974, under which J was to manufacture ship sets designated as the Model 700 and the Model 710. A was to assemble the ship sets, finish the interiors of the aircraft, and use its best efforts to sell the aircraft in the United States and elsewhere.

The first Model 700 ship set was imported in March 1978. After 45 ship sets had been produced (3 prototypes and 42 imported ship sets) the program was halted. There were mutual recrminations and the contract was cancelled by an agreement under which A paid damages to J. The Model 710 literally did not get off the ground.

The case was originally forwarded to us under the Internal Advice procedures and we issued I.A. 226/80 on June 30, 1981. Thereafter, the importer retained co-counsel who submitted a petition for reconsideration on October 20, 1981, subsequently supplemented by additional data and arguments.

B. *Issues:* 1. Over how many ship sets should the nonrecurring research and development costs be apportioned?

In I.A. 226/80, we ruled that these costs could only be apportioned over the 45 ship sets actually produced because the 1974 agreement was not a binding contract to produce 504 aircraft (the planned production from 1977-1981). The petition for reconsideration argues that the nonrecurring costs should be allocated over 554 aircraft—the number planned to be produced from 1977-1982 plus an additional 50 which J intended to sell in Asia and Australia.

The basic contention in this petition is that in our prior ruling we applied a restrictive practice inconsistent with generally accepted accounting principles, that was not required by either statute or regulation. The petitioner also contends that under current law and regulations, J's development costs would be apportioned over 554 ship sets, and that the Customs Service can and should take these principles into account in appraising the ship sets.

2. What is the applicable basis of appraisement?

The ship sets were appraised under constructed value. The petition contends that export value is an alternative basis of appraisement.

3. What is the total research and development cost?

In our prior ruling, we held that the total research and development cost was a figure based upon statements from the parties to these transactions. The petition contends that those statements were incorrect, and that the total cost was a lesser sum.

I. UNDER GENERALLY ACCEPTED ACCOUNTING PRINCIPLES J's DEVELOPMENT COSTS FOR THE MODEL 700 WOULD BE APPORTIONED OVER 554 AIRCRAFT. AN EXAMINATION OF THE AGREEMENT AND OTHER EVIDENCE INDICATES THAT THIS WAS THE ANTICIPATED PRODUCTION FOR THE MODEL 700.

A. *The program method of accounting should be used to apportion J's development costs.*

The aircraft industry follows the "program method of accounting." It is a generally accepted accounting method, according to the accounting firm of Price Waterhouse, and the J-A venture satisfies all of the requirements for the application of that accounting method. Customs is being inequitable and is following improper accounting procedures by not allocating the nonrecurring research and development costs in accordance with the program method of accounting.

Reply: Even accepting the statement that the venture qualifies for the program method of accounting, prior to enactment of the Trade Agreements Act of 1979 (TAA), Customs did not follow generally accepted accounting principles in computing constructed value or cost of production. Neither the law nor the regulations required us to do so and therefore we properly followed allocation methods prescribed in court decisions, most notably, the often-cited *Oxford University Press, N.Y., Inc. v. United States*, C.A.D. 405 (1949), and *United States v. Border Brokerage Co., Inc.*, A.R.D. 288 (1971).

B. *The anticipated production for the Model 700 was 554 aircraft.*

1. The total of 554 aircraft was established by the Agreement's Production and Sales Plan (The Plan) which in turn was based on substantial market research.

Armed with specific market projections from consultants each party had engaged, and based on their combined experience in the general aviation business, J and A proceeded to negotiate and conclude the 1974 agreement which incorporated a specific Production and Sales Plan. That plan stated the number of aircraft—Model 700 and Model 710—to be produced from 1977-1982, and was directly related to the results of the parties' marketing research. The production figures in the plan were not selected at random, but rather were the product of educated estimates by two very experienced aircraft manufacturers.

Reply: We accept the contention that the plan represented the product of educated estimates and was not a haphazard or random selection. Clearly, some sort of production and sales plan had to be drawn up in a project of this magnitude. Nonetheless, when all is said and done, the plan was no more than an estimate or forecast of hoped-for future production and sales which, even if intended to be followed when the agreement was executed, was not carried out.

n fact, the Model 710, which was an integral part of the plan, was ot even produced. Furthermore, as will be discussed *infra,* certain rovisions in the agreement appear to belie the planned production f 63 Model 700 aircraft in 1977.

2. The Production and Sales Plan formed the basis of the Agreement.

The plan was not an isolated document. On the contrary, as indicated by the agreement itself, the entire venture was built around the plan. This can be seen from Article 3 of the agreement which decribes each party's development responsibilites, including the development of a specific level of manufacturing efficiency. Paragraph (C) of Article 3 was misinterpreted in the prior Customs ruling when it concluded that the word "assumption" related to the number of units to be produced. In reality, that word related to the efficiency J was expected to achieve, given a total of 783 aircraft.

The level of efficiency set forth in paragraph (C) was repeated in paragraphs (K) and (L), which dealt with Producibility Measurement and Producibility Attainment. In these paragraphs, it is much easier to perceive that the "assumption" mentioned in paragraph (C) related to levels of efficiency, and not to the number of units to be produced. The number of units was taken as set forth in the Plan. The Plan was also the basis upon which J and A negotiated the amortization schedules for the authorized development costs.

Finally, the plan formed the basis for the Detail Statement of Work which is Exhibit A to the Agreement. Included in the information are several tables providing specific delivery dates for the parts to be supplied by A to J. The parts listed were those required to produce 65 Model 700 ship sets. This represented the first year's production requirements as set forth in the Plan; *i.e.,* the two prototypes to be kept by J, the three units to be shipped to A for testing, plus 60 production units.

It is clear that the plan was not something which the parties haphazardly attached to the agreement. Rather, it provided the central focus upon which all other parts of the agreement and the actions of the parties were based.

Reply: It is true that certain production figures from the plan were used in the body of the agreement, and the improvement curve (Exhibit D) did incorporate the 1977–1982 planned production figures of the Model 700. However, Exhibit D was not one of the documents specifically incorporated by reference in the agreement under Article 1(B), and the plan *as such* is not specifically referred to in the agreement. If in fact it was the "central focus" of the agreement, it would seem that it would have been incorporated by reference in the agreement.

We disagree with the contention that we erred in concludin that the word "assumption" in Article 3(C) related to the numbe of units to be produced, in view of the plain language of that paragraph which, in pertinent part, provides that:

> The assumption in this paragraph is that a total of 783 Aircrafts (405 Model 700's and 378 Model 710's) *will be manufactured and* that the cumulative average direct labor hours fo J's portion of the aircraft should be 3,490 hours for the Mode 700 and 3,250 hours for the Model 710 * * * (Emphasi added).

In fact, there are three assumptions in Article 3(C): (1) 783 aircraft will be produced; (2) J's direct labor hours for the Model 700 will b 3,490 hours; (3) J's direct labor hours for the Model 710 will b 3,250.

Although Paragraphs K and L refer to the level of efficiency se forth in Paragraph C, those paragraphs relate only to the secon assumption in Paragraph 3(C). The first assumption in that paragraph relates to the number of aircraft to be produced. Thus, we stand by the statement made in our prior ruling.

We also find that the 1977 (first year) production figures in the plan appear to be inconsistent with certain provisions in Articles 4 and 6 of the agreement. Article 4 sets forth the certification schedule for the parties to obtain FAA type certificates for the Model 700. Under Article 4(A), J was required to apply for and obtain an FAA type certificate (or FAA acceptance of a JACB type certificate) by December 28, 1976. Article 4(B) reuired A to apply for and obtain an FAA type certificate by February 28, 1977. Notwithstanding those provisions, the parties agreed (under Article 4(C)) to use their best efforts to obtain the type certificates by October 1, 1976.

Article 6 provided that within 15 days after A's receipt of the type certificate, or 75 days after the date specified in Article 4(A), whichever date was earliest, the policy committee would meet to determine whether the Model 700 development program had been successful. The program would be deemed successful only if both parties had discharged various obligations under the agreement relating to type certification, production, labor, material costs, etc. If the parties agreed that the Model 700 had been successfully developed, the parties' principal representatives would execute a Memorandum of Successful Completion of the Model 700 Aircraft Development Program, and the production and marketing programs provided for under the agreement would continue.

Under the terms of the agreement, October 16, 1976, appears to be the earliest date the policy committee could have met to decide on the successful development of the Model 700 and its continued production. March 15, 1977, was the latest date provided for the policy committee's meeting. Presumably the "Memorandum of Successful Completion * * *" would require some study to determine whether the criteria for successful completion outlined in Article 6 had been met. The drafting and issuance of the memorandum would, of course, require still more time. While, under the terms of the agreement, the memorandum might have been issued in 1976, under a "worst case" situation *specifically contemplated in the agreement:*

1. J would not have obtained the FAA certificate (or approval of the JCAB certificate) until December 28, 1976;
2. The policy committee would not have met until March 15, 1977;
3. Under an extremely optimistic estimate, the Memorandum of Successful Completion would be issued on April 1, 1977.

The production plan called for the production of 63 Model 700 aircraft in the first year of production, 1977. Each year thereafter, nine additional aircraft were to be produced, the additional production apparently being keyed to planned improvements in productivity and projected increases in sales. It seems to us that the terms of the agreement, which contemplated the possibility of a decision to proceed with production as late as April 1977 are inconsistent with the planned production of 63 aircraft the first year of production, considering that the greatest production problems would have been likely to occur in the first year (this is acknowledged in the Improvement Curve—Exhibit D), and that only ¾ of that year (or less) might have been available to produce only nine fewer aircraft than were to be produced the following year. A logical correlation between the plan and the above-discussed terms of the agreement would have seemed to call for production of a considerably smaller number of Model 700 aircraft in 1977. Actually, the agreement's certification schedule was overly optimistic, because A did not obtain an FAA type certificate until October 28, 1977).

3. The subsequent actions of J and A clearly evidenced an intention to carry out the Production and Sales Plan.

Our contention that the parties were not really obligated to produce any specific number of aircraft is incorrect for the following reasons.

Appendix 5 contains copies of invoices which demonstrate that A made purchases from J of the necessary parts for all Model 700 aircraft required for the first year of the plan. In a letter of March 24, 1982, replying to our request for some additional information, the importer's attorneys stated that J's schedule of production of the parts listed in Appendix 5 corresponded to the timing required by the original production and sales plan. J was ultimately obliged to destroy many of the parts called for by the purchase orders, because A refused to accept shipments of the first full year of production of ship sets originally called for by the agreement after it was terminated.

Appendix 6 lists the parts A supplied to J in accordance with the Detail Statement of Work. These documents further demonstrate that during the first year of the plan, A was proceeding in accordance with the plan.

A letter of October 13, 1975, from A's program manager to U.S. Customs is further evidence of A's intent to carry out the plan. The letter stated A's intention to purchase 783 ship sets from J over a 5 year period, which corresponds to figures in the plan. Also, the letter advised that the first 79 ship sets received from J would not have the unit amortization or development costs included in the invoice amounts because the agreement required A to make a lump sum partial prepayment of development costs upon successful completion of the development tests. This prepayment would be inexplicable if A has not determined to carry out the entire plan.

J's commitment to the plan is evidenced by its establishing a separate company to produce the Model 700 and the Model 710. The discussion of capacity growth in a J internal memorandum was directly related to the plan. The March 24 letter advised that the company commenced operations on January 5, 1976, and was designed to produce about nine Model 700 ship sets per month.

J also arranged with subcontractors for supplies of parts and tooling necessary to manufacture the ship sets. According to your letter of August 10, 1982:

> 1. J procured forgings and extrusions from two Japanese companies in quantities sufficient to produce up to 137 ship sets—the first and second years' planned production. (You documented this claim by submitting copies of ledger sheets showing copies of orders J placed with the two companies, a summary listing of orders J placed, and an affidavit from the J Manager, Material Control (hereinafter referred to as the Manager).
>
> 2. J entered into an agreement with another Japanese company to purchase parts for landing gear designed for the Model 700-710 ship sets. The prices in the agreement were set on the understanding that the company's development costs would be amortized over more than 600 ship sets.

The company had received orders from J to produce parts sufficient to produce 93 ship sets when the program was cancelled Thirty five of these orders had to be cancelled because of the termination of the J-A agreement, since the parts were of no further us to J.

J subsequently agreed to pay the company damages of 80 millio yen (approximately $320,000). (You documented this claim by submitting a table of orders placed and a copy of the cancellatio agreement and an affidavit from the Manager).

J would not have committed itself to the purchase of more tha 600 ship sets unless it had reasonably anticipated needing the par for the more than 600 Model 700-710 called for under its agre ment with A. The requirements for these parts flowed direct from J's commitment produce the number of ship sets called for under by the Production and Sales Plan of the J-A shipment.

3. A Japanese company delivered power packs to J sufficient for the construction of 80 Model 700-710 ship sets. (This is documented by an affidavit of the Manager). The development costs for the power packs were to be amortized over 500 ship sets. When the agreement, between J and this company was cancelled due to the cancellation of the J-A agreement, J agreed to pay 18 million yen (about $72,000) in damages for unamortized development costs and other damages.

Surely J would never have entered into these commitments unless it had reasonably anticipated that it would produce these hundreds of ship sets.

4. J purchased expensive tooling designed for large quantity production for the Model 700 program. Under the terms of the J-A agreement, J was to produce tooling in quantities and quality to support a minimum production rate of 10 aircraft per month and a minimum life of 1,000 aircraft. This clearly demonstrates that J anticipated producing more than 63 aircraft. Tooling designed, for example, with a capacity for an anticipated production of 100 ship sets at a rate of 1 per month costs 40 percent less than the tooling J purchased.

5. A new factory was added with the understanding that it would be devoted exclusively to manufacturing the Model 700 and 710 aircraft. (According to a letter from a J official, J purchased a building which it converted to a manufacturing plant. After the J-A agreement was cancelled, the factory was closed down for 9 months, after which it was reactivated under a subcontract from another aircraft manufacturer).

The facility would never have been established in the first place if J had not reasonably anticipated producing the hundreds of ship sets called for under its agreement with A.

Reply: Based upon the additional documentation submitted, we conclude that the nonrecurring research and development costs should be allocated over the first 2 years' planned production of 137 ship sets because, under the *Border Brokerage* holding, the evidence submitted is sufficient to establish that the parties reasonably anticipated producing that number of aircraft.

The evidence presented to establish a commitment to go beyond the first 2 years' planned production is not persuasive, for the following reasons. J's contracts with its suppliers for amortizing the suppliers' costs over 5-600 ship sets appear to be in line with the Production and Sales Plan projections in the J-A agreement. However, for reasons discussed *infra*, we do not believe that agreement is a legally binding contract to produce or purchase a specific number of aircraft. Since that agreement, which included the Production and Sales Plan, is not a legally binding contract, any financial commitment J made in furtherance of that plan is simply a byproduct of the J-A agreement. By contracting to amortize the subcontractors' costs over 5–600 ship sets, J undoubtedly obtained a better price than it would have under a lesser amortization. J's financial losses are unfortunate, but the fact that they took a calculated risk that their agreement with A would be carried out, and that they lost, is not relevant to our decision.

This same reasoning applies to J's acquisition of expensive vs. lesser quality tooling, and the acquisition of a factory to build the aircraft. These actions obviously stemmed from the basic J-A agreement, and are merely further by-products of that agreement.

The scheduled delivery dates for the various parts listed in Appendix 6 generally do not go beyond 1977, the first year of production. The October 1975 letter simply stated the number of ship sets contemplated by the plan and evidenced an intention of building at least 79 ship sets, which is far short of the total planned number.

As evidence that the agreement was not a legal commitment to produce or purchase a specific number of Model 700 aircraft, Appendix A, Article A1(A)(ii) provides, essentially, that every January A:

> "* * * will place a priced firm order together with delivery schedules for Model 700 * * * shipments."

On stated subsequent dates A will give J a forecast of A's future needs for a specified time period. That provision also states that:

> Nothing in this Agreement shall be deemed or be construed as a commitment or obligation on the part of A to place a subsequent firm order for a period for which it has provided J a forecast * * *

Article A1(C) provides that within a stated time period after A has placed a purchase order with J, J shall either accept or reject it. Thus, it is clear that neither party to the agreement was legally bound to follow the production plan by producing or purchasing any specific number of Model 700 aircraft.

> 5. In addition to the aircraft called for by the plan, production of 50 additional Model 700s for sale in Asia and Australia was anticipated.

This latter group of sales is referred to in Article 8 of the agreement which (in part) provides that A's amortization payments would be only 90.867 percent of the total authorized amounts. The remaining 9.133 percent represented the development costs for which J would be compensated by its sales in Asia and Australia. Therefore the total anticipated production for the first 6 year period was the 504 aircraft called for by the agreement, plus another 50 aircraft which J expected to sell in Asia and Australia, making a total of 554 aircraft.

Reply: Since, for reasons set forth in this letter, we are not convinced by the arguments advanced to justify allocating the nonre

ring costs over 504 aircraft, it follows that we are unwilling to
ocate those costs among an even greater number of aircraft.

Summary: The evidence is overwhelming that the original intent
J and A was to produce 554 aircraft. The fact that 554 aircraft
re not, in fact, produced should be irrelevant for purposes of ap-
tioning J's development costs.

Reply: We find the evidence considerably short of "overwhelm-
g." At most, the production plan was an educated estimate of
ure production and sales. There is some correlation between fig-
es used in various parts of the agreement and the *first year's* pro-
ction figures of the plan. It is arguable whether the plan was in-
rporated into the agreement, and in any case, we do not consider
e agreement to be a legally binding contract to produce and pur-
ase a specific number of aircraft within stated time periods.

Because of the parties' demonstrated financial commitments, we
ree that the evidence submitted establishes an intent to proceed
th the first 2 years' planned production. (This modified our prior
ling, which allocated the nonrecurring costs among the ship sets
tually produced.)

. THE CURRENT CUSTOMS REGULATIONS AUTHORIZE THE APPORTIONMENT OF J's DEVELOPMENT COSTS OVER 554 AIRCRAFT

A. *The Current Regulations.*

Prior to the Trade Agreements Act of 1979 (TAA) neither the
aluation laws nor the Customs Regulations provided for methods
apportioning nonrecurring costs. As a result of *ad hoc* decisions,
owever, the Customs Service had established over time a method
apportioning nonrecurring costs. As a result of the TAA, howev-
r, there are now for the first time regulations which prescribe in
etail the methods of apportioning nonrecurring costs.

The computed value provision states that the value of any assist
hall be included in the computed value; it does not set forth any
ethod of apportionment. The provision on transaction value
tates only that the value of any assist shall be apportioned as ap-
ropriate.

Section 152.103(e) is quite specific in regard to apportioning as-
ists in accordance with generally accepted accounting principles.

Reply: While we generally agree with these contentions, we point
ut, as further discussed *infra*, that under the TAA and our imple-
enting regulations assists and nonrecurring costs are dealt with
n different provisions of law and regulation. Section 152.103(e) re-
ates only to apportionment of assists.

B. *The rules on apportionment were amended, with the approval
f Congress, because of general dissatisfaction with the old practice.*

One of the major purposes of the TAA was to implement into
.S. law the principles embodied in the Valuation Code of the
MTN Agreement. Although the implementation of the Code re-

quired several fundamental changes to the U.S. valuation law, t
Code itself did not require a change in the practice of apportioni
nonrecurring costs. Since the code did not require the liber
change embodied in section 152.103(e), this change had to be t
result of a unilateral action on the part of the U.S. The legislati
history of the TAA makes it clear that this unilateral action w
deliberate. Although the legislative history does not expressly ide
tify the reason for this unilateral action, it is clear that the chan
stemmed from general dissatisfaction with the old practice. Th
implicit disapproval of the former Customs Service practice
something which the Customs Service may and should take into a
count when appraising the J ship sets.

Reply: Infra.

C. *Under the current Customs Regulations, J's development* co
would be apportioned over 554 aircraft.

As previously indicated, 554 aircraft was the reasonably anti
pated production level of the Model 700. 554 aircraft was likewi
the number which would be used to apportion J's developme
costs under generally accepted accounting principles. Therefo
under new section 152.103(e), J's development costs clearly wou
be apportioned over 554 aircraft.

Reply: We agree that under the TAA, J's development co
would be apportioned over 554 aircraft, assuming the correctness
the accounting firm's statements, which we have no reason to que
tion. However, section 152.103(e) is not relevant for apportioning
foreign producer's nonrecurring costs. That section deals specific
ly with assists, which are, for the first time, defined in secti
402(h)(1) of the law, and include certain materials, tools, enginee
ing, etc. supplied directly or indirectly and free of charge or at
reduced cost, by the buyer of the imported merchandise. Certa
engineering, artwork, etc. if performed in the U.S. is excluded fro
the definition of assists. Presumably few, if any of the costs in iss
would come within the statutory definition of assists.

If the TAA and our implementing regulations were applied to the
ship sets, we probably would accept the claimed apportionme
but under the authority of section 402(g)(3) of the law which is i
plemented by section 152.102(c)(3) of the regulations. Those pro
sions relate to and define generally accepted accounting principl

III. THE CUSTOMS SERVICE CAN AND SHOULD TAKE TH NEW APPORTIONMENT RULES INTO ACCOUNT IN A PRAISING THE J SHIP SETS

A. *The former Customs Service practice of apportioning devel*
ment costs was not mandated by the old valuation law.

Customs' method of allocating nonrecurring costs under cost
production and constructed value were not based upon any statu
ry requirements, but rather resulted from an overly narrow int
pretation of the previously cited *Oxford* and *Border Broke*

cases. Customs administrative rulings which followed those cases erred in blindly applying the holdings to situations that were quite different. By restricting apportionment of research and development costs to the number of units actually produced, or over anticipated production only when firm contracts existed for such production, Customs incorrectly and unfairly distorted the meaning of those cases to the detriment of importers. Neither case compels the conclusion that a claimed production amount can be supported *only* by contracts or firm commitments.

The former Customs practice is also inconsistent with the more flexible Customs approach taken in court decisions and Customs regulations involving cost or value determinations under items 806.30 and 807.00, TSUS, and Treasury Department decisions involving section 205(b) of the Antidumping Act of 1921, as amended, 19 U.S.C. 164(b).

Reply: We believe our interpretations of *Oxford* and *Border Brokerage* are consistent with those decisions and the statutory requirements for determining the cost of fabrication. The fact situations in those cases were not extreme or atypical, in view of the many rulings on essentially similar facts.

In ruling as we have, looking either to the number of units actually produced or over anticipated production when a contract existed for such production, we have not necessarily rejected other evidence if sufficiently persuasive to establish the alleged number of units that the parties reasonably anticipated would be produced. The difficulty in this case is our basic disagreement as to the calibre of proof of anticipated future production which has been presented.

Although Customs does use generally accepted accounting principles in some cost or value determinations involving other statutory provisions, those provisions do not involve the valuation of nonrecurring research and development costs involved in the cost of fabrication, and are therefore distinguishable, in our opinion.

B. *The Customs Service may take the new apportionment rules into account on a pre-TAA transaction.*

As a matter of statutory construction, the Customs Service may take subsequent legislation such as the TAA into account. It is, of course, a general rule of construction that statutes and regulations are presumed to have prospective effect only, and the TAA and section 152.103(e) are expressly effective with regard to merchandise exported on or after July 1, 1980. You are not suggesting that we apply this regulation to the instant transaction. Rather, you urge that we reconsider our prior apportionment practice in light of the changes brought about by the TAA. There are cases (cited) in Customs jurisprudence and elsewhere which have applied the principle of looking to later law for guidance in construing an earlier law. Thus, Customs may properly take the TAA into account in reconsidering the validity of its former apportionment practice.

There is nothing in the legislative history of the TAA to suggest that the Customs Service previously lacked the authority to adopt such rules. Indeed, Congress expressly referred to the former apportionment rules as a "practice," thus implying that these rules were not required by the old valuation law.

REPLY: Infra

C. *The Customs Service may revise its apportionment practice through its ruling in this case.*

Customs may apply a new apportionment practice retroactively to the instant transaction, since an administrative agency such as Customs is free to modify its past practices provided that such modifications are well reasoned and do not work an undue hardship on the parties affected. Such a retroactive change would benefit importers. Furthermore, we are not bound by the rulemaking procedures of the Administrative Procedure Act.

REPLY: Infra

D. *The Customs Service should apply the principles of the new apportionment rules to the appraisement of the J ship sets.*

The application of the new rules in the instant case would be in furtherance of a historical trend towards the development of valuation laws which are consistent with commercial reality. Also, it would be equitable to modify the former apportionment practice at this time. This practice, which is so inconsistent with the accounting practices of the real world, is extremely unfair to importers, and penalizes those companies which draft their contracts with great care.

From a negative standpoint, there is no valid policy reason for not applying the new rules retroactively.

REPLY: (B.C.D.)

Your argument with regard to the applicability of section 152.103(e) of the regulations has equal relevance with regard to the applicable section of the regulations, section 152.102(c)(3). That section implements section 402(g)(3) of the TAA which, for the first time, requires Customs to accept information submitted by an importer, buyer, or producer if it conforms with generally accepted accounting principles, as defined in the TAA and the regulation.

If we accepted your argument, it would follow that we would also have to apply the principles of the TAA to other situations wherein the TAA contained a new provision which, if applied, would benefit an importer. For example, the pre-TAA valuation laws did not define the term "assists." Under numerous court decisions, it was our practice to include as assists engineering, development, plans, etc which the importer supplied to the manufacturer free of charge or at a reduced cost, if necessary to produce the imported article. We did not distinguish between work done in the United States or abroad. The rationale for this practice, under the leading case of *Ford Motor Company* v. *United States*, A.R.D. 9 (1952), was that the statute required us to determine and assess duty on not the manufacturer's cost, but on the actual cost of manufacture.

The TAA, in section 402(h)(1)(B), for the first time defined the term "assist" and specifically provided that certain engineering, development, etc. performed in the United States was not to be treated as an assist.

Clearly, that provision benefited importers by treating as nondutiable certain items which, under established administrative practice, had been treated as dutiable. This is just one example of many other cases in which the TAA is more equitable to importers than were the prior laws. Under your reasoning, we should apply the TAA principles to unliquidated pre-TAA entries whenever doing so would benefit the importer. Administratively, such appraisement procedures would be unworkable, apart from any legal considerations.

The legal considerations are the fundamental bar to accepting your argument. We have great difficulty in seeing how we can realistically separate the principles of the TAA and our implementing regulations from the provisions themselves. The "effective date" provision of the TAA, section 204(a)(1), contemplated several possible effective dates, depending upon when the President issued a required proclamation, and then provided that the TAA should take effect: ". . . *in no event* before July 1, 1980" (Emphasis added). Alhough it may well be that enactment of certain TAA provisions was prompted by Congressional dissatisfaction with prior Customs administrative practices, Congress explicitly provided that existing aws would remain in place at least until July 1, 1980. If we were o apply the TAA principles (which, in our view, would be tantamount to applying the law itself) to these pre-TAA importations, we would be substituting our views for those of the Congress, which s clearly beyond the scope of an administrative agency. It is one hing for an agency to change or modify an administrative *practice* y taking into consideration a prospective law. It is quite another matter, however, for an agency to accord retroactive treatment to a *aw* which Congress has prescribed shall have a stated, prospective ffective date.

In this connection, we believe the case of *L. Sandoz Vuille, Inc.* v. *nited States*, T.D. 47349, 22 CCPA 303 (1934) is in point. There, atch cases and movements were entered and duties were paid nder the Tariff Act of 1922. The cases were claimed to be defecve as not conforming to sample, and were returned to Customs ustody within 30 days of their release by Customs, for the purpose exportation with the benefit of drawback pursuant to section 13(c), Tariff Act of 1930.

The Tariff Act of 1922 made no provision for the right granted by ction 313(c) of the Tariff Act of 1930. The court stated the well tablished principle that a retroactive effect will not be given to a atute unless, from the legislative expression such effect was intended, and concluded, that there was no such legislative expression with regard to section 313(c). In fact, the 1930 act provided that modifications of existing law were not to affect any acts done or any rights accrued prior to such modifications.

While no such provision is present in the TAA, a similar intent can be found by the cited TAA effective date provision. In effect, the TAA gave importers, buyers, and producers a new right—to have their submissions accepted by Customs if prepared in accordance with generally accepted accounting principles. Congress explicitly provided that this right would not be available until July 1, 1980, at the earliest.

For the foregoing reasons, we conclude that the TAA and our implementing regulations, even in principle, cannot be applied in appraising the J ship sets.

IV. EXPORT VALUE AS DEFINED IN SECTION 402(b), TARIFF ACT OF 1930, AS AMENDED, IS AN ALTERNATIVE BASIS FOR APPRAISING THE SHIP SETS

The merchandise is not on the Final List, T.D. 54521 (1958). Export value takes precedence over constructed value, and applies to these ship sets. A is a selected purchaser within the statutory definition of export value, and its purchase price of $90,064 plus the prepayment of $6,900 for the 42 ship sets fairly reflects the market value of the merchandise.

Reply: The statutory definition of export value requires a price, at the time of exportation of the merchandise undergoing appraisement, at which such or similar merchandise is freely sold or offered for sale, for exportation to the United States. The price at which the ship sets are sold cannot be determined because the actual payment for the development costs cannot be quantified. Also the contract (Appendix A1 (f)) makes the final price at which the merchandise is sold contingent upon the resale price of the finished aircraft. This sale takes place much later than the dates the ship sets were exported. Consequently, the final price of the ship sets was not set at the time of exportation.

An additional requirement of an export value appraisement is that all elements of value be included in the selling price. It is evident from the record that the price of the first 79 ship sets did not include any amount for reimbursement of development costs. This reimbursement was made as a separate transaction under the agreement. It is a long established principle of appraisement that an element of value which is missing from the export selling price cannot be added to that price to establish export value.

Because of the unique nature of the merchandise, we conclude that there is no similar merchandise upon which to base export value. There is no U.S. value (which takes precedence over constructed value) because the merchandise was not sold in the United

States in its imported condition. Therefore, we conclude that constructed value is the applicable basis of appraisement.

V. R&D EXPENDITURES FOR THE MODEL 700 WERE GROSSLY OVERSTATED

The total cost figure stated in our original ruling is in error, and is in large part the result of various misunderstandings between the parties to these transactions.

Reply: If this contention can be established to the satisfaction of the concerned import specialist, we will accept it.

C. *Holding:*

1. The evidence submitted establishes that J and A reasonably anticipated producing 137 aircraft (the first 2 years planned production, including prototypes). Therefore, under the *Border Brokerage* holding, the research and development costs will be allocated over 137 ship sets.
2. We find no basis for allocating the research and development costs over a greater number of ship sets because we conclude that the J-A agreement is not a legally binding contract.
3. Constructed value is the applicable basis of appraisement.
4. Duties will be assessed on the actual cost of research and development, not on any amount that may have been stated in error.

(C.S.D. 83-59)

This ruling holds that a metal disc known as a "mother" used to produce a "stamper" which stamps out phonograph records, does not fall within the assist category. (Section 402(h)(1)(A), TAA)

Date: November 12, 1982
File: CLA-2 CO:R:CV:G
542936 BLS
TAA #54

Re: Application for Further Review of Protest No. 4110-2-000003; Whether a "Mother" is an Assist

The above-captioned matter involves the dutiable status of a metal disc known as a "mother", used in the production of phonograph records. This issue was brought to our attention by a memorandum from the Director, Classification and Value Division, Chicago Region, dated August 26, 1982, transmitted through the Customs Information Exchange, New York.

The protestant ("Importer") is a major manufacturer of phonograph records in the United States. However, in some instances Importer utilizes foreign manufacturers to produce certain types of records. While actual record production takes place in the foreign country with the direct use of a metal "stamper" produced by the foreign manufacturer, the initial and intermediate processing which leads to the production of the stamper takes place in the United States. Thus, Importer produces a "master lacquer", which is then furnished free of charge to "U.S.", an unrelated third party in the United States. From the master lacquer, U.S. produces the "mother", which is then sold to Importer, who subsequently furnishes it without charge to the foreign manufacturer who then produces the stamper. The entire production process is described as follows:

Music is recorded on magnetic tape. The recordings are recorded on several "tapes." These "tapes" are mixed and edited and re-recorded on one magnetic tape. This "master tape" is used to create "master lacquers."

Master lacquers are flat aluminum discs upon which a coating of lacquer is flowed. The master tape is played and through an electronic system a signal is sent to the cutting head of a lathe and the music is literally plowed into the lacquer, creating a groove which is eventually duplicated in the record.

The "master lacquer" is coated with an ultra-thin layer of silver. Nickel is then electroplated on the silver coating. The silver/nickel coating is split from the master lacquer. This metal is called a "father." The face-to-face electroplating process creates a negative image. Therefore, the grooves in the master lacquer become negative-image ridges on the "father."

More nickel is then electroplated to the face (music side) of the "father." The parts are then split and the new part, which contains the image of the music in grooves, is called a "mother."

Nickel is electroplated onto the music side of the "mother." The part that is split from the "mother" now contains the image of the music in the form of ridges. This part is called a "stamper."

The "stamper" has a hole punched exactly in its center. The edges are trimmed, and formed to fit the press mold. The "stamper" is then attached to the press mold.

Labels are placed facing the stamper: a patty of hot compound is placed between the labels. The stampers are heated by the press mold. The combination of the hot stampers and the pressure of the closing press forces the hot compound to completely fill the areas between the ridges of the stamper. Thus the image of the music which was originally cut into the "master lacquer" is pressed into the record in the form of an identical groove.

Importer contends that since the "stamper" and not the "mother" is used to directly produce the record, the "mother" cannot be considered a mold within the meaning of section 402(h)(1)(A), Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (TAA). Importer points out that due to its construction, the "mother" cannot actually be used to produce the record, and is merely an intermediate vehicle for the transmission of the sound recording to the "stamper." The "stamper," rather than the "mother," is the mold used to produce the record. Importer is of the opinion that the "mother" is "design work" or product development, and since produced in the United States, is not an assist.

On the other hand, you point out that the "mother" is the negative of the image of the music in the form of ridges from which must be cut the metal stamper which is the image of the music in groove form. This is the only form that can be used to produce the phonograph records. Although the "mother" itself cannot stamp out the finished product, you believe it must be considered a mold from which the stamper is produced to print the records.

Section 402(h)(1)(A), TAA, provides that certain enumerated items supplied free of charge or at reduced cost are considered to be assists. In pertinent part, these items include—

> "(ii) Tools, dies, molds, and similar items used in the production of the imported merchandise.
>
> "(iv) Engineering, development, art work, design work, and plans and sketches that are undertaken elsewhere than in the United States and are necessary for the production of the imported merchandise.

In Headquarters Ruling 542355, dated April 3, 1981, we held that the metal stamper, which was produced in the United States and furnished to the foreign manufacturer free of charge was a dutiable assist since its use was analagous to that of a mold. We found otherwise in cases dealing with a U.S. produced pattern generator tape (Headquarters Ruling 542324, dated June 22, 1981) and a tape containing a song or message used in the production of a stamper, which was then used to stamp out phonograph discs (Headquarters Ruling 542446, dated July 23, 1981). In those instances, we found the tapes to be in the nature of designs, and not "tools, dies, molds, etc. . . ." Since produced in the United States, such items did not fall within the assist definition.

Similar results were reached in cases dealing with photographic negatives used in the production of greeting cards (Headquarters Ruling 542521, dated October 7, 1981), and a "working film" used to produce photographs appearing on cartons (Headquarters Ruling 542625, dated January 18, 1982).

In Headquarters Ruling 542521, a duplicate of a "working film" was transferred to a metal plate, which was then attached to a printing press which produced printed sheets laminated on to boxes. In Headquarters Ruling 542625, the photographic negative was converted by the manufacturer to a positive. Then the images on the positive were etched onto printed plates which, in turn, were used to print the acetate-faced greeting cards by means of an offset process. In both of these cases, the subject article was found to be in the nature of a design or product development, and since produced in the United States, was not dutiable.

Neither of these items (nor the tapes discussed in the prior rulings, *supra*), conform to the definition of a mold as commonly de-

fined. The Random House Dictionary of the English Languag
(1973 Ed.) defines a mold as: "1. a hollow form or matrix for givir
a particular shape to something in a molten or plastic state.
That on or about which something is formed or made."

Thus, a mold is ordinarily perceived as the item which gives fin
shape and form to the manufactured article. As we pointed out
Headquarters Ruling 542355, *supra*, the stamper is such an iter
being used to actually stamp out the phonograph records. On t
other hand, a "mother" or other intermediate step in the manufa
turing process, such as the "working film" or photographic neg
tive, while necessary for production of the imported merchandi
does not give final shape or form to the finished product, b
merely is used to produce a mold or to produce another item whi
in turn may be used to produce a mold.

We perceive the statutory phrase under subparagraph (ii), ".
and similar items," as it applies to a mold, to carry the same ba
meaning, *i.e.*, such item must give final shape and form to the co
pleted article. Since the "mother" does not function in this mann
(nor can we view it as a tool, die, or similar item), it does not f
within this assist category. Rather, it is our view that such item
in the nature of development work, and since performed in
United States, is not an assist.

Under the circumstances, you are directed to allow the prot

(C.S.D. 83-60)

This decision holds that unassembled and incomplete lugg
parts are properly classifiable as an entirety under the provis
for luggage in item 706.62, Tariff Schedules of the United Sta

Date: December 10, 19
File: CLA-2 CO:R:CV
070291 JC

To: District Director of Customs, Boston, Massachusetts 02109
From: Director, Classification and Value Division
Subject: Request for Internal Advice 52/82 Concerning the Ta
Classification of Unassembled Polyurethane Luggage (Y
memorandum of February 16, 1982)

The subject Internal Advice request was initiated by counsel
letter dated January 22, 1982. The merchandise under consi
ation is made in Taiwan.

Issue: Based on a previous decision from this office, Customs
cers in the field are of the opinion the merchandise is prop
classifiable under the provision for luggage in item 706.62, T
Schedules of the United States (TSUS). This provision provide
no exemption from duty for products of beneficiary develo
countries and requires a column 1 rate of 20 percent ad valo

The TSUS does not contain a provision for parts of luggage,
no specific alternative classifications have been proposed in th

request. But counsel claims the 20 percent rate is avoided by the unassembled and incomplete nature of the merchandise in its condition as imported, and the unassembled components are separately classifiable under the applicable *eo nomine* provisions. While some *eo nomine* provisions may be involved, it is also likely that basket provisions providing free or comparatively low rates are involved to a greater extent. This matter, therefore, concerns an interpretation of General Headnote 10(h), TSUS, which states that a tariff provision covers merchandise whether assembled or unassembled and whether finished or unfinished.

Facts: The facts and circumstances concerning this matter have been the subject of a report by a Customs officer who visited the importer's plant, and the subject of a conference conducted at Customs Headquarters on August 18, 1982. Numerous exhibits have been submitted together with cost analysis information comparing the number of imported parts with the number of domestically sourced parts which are added to the imported parts to make the complete merchandise, comparing the unit costs of the imported articles with the unit costs of the domestic articles, and comparing the total domestic costs, including overhead, with the cost of the imported articles. In summary, these data purport to show that 38 of the parts in the completed merchandise are imported, while 84 parts are of domestic origin, and that the total unit costs of the foreign parts are $9.82, while the total costs of the domestic parts are $7.07, but that when overhead and labor are added to that figure, the total domestic costs are $19.12. Counsel has further set forth that when duty and freight are considered, foreign costs represent 36.5 percent of the total costs of the finished product, while the domestic costs represent 63.5 percent. It is also contended that it takes ½ times longer in time and effort to complete the merchandise than to put it in its imported condition.

The product involved when it reaches the retail market is a modern-type large suitcase with wheels so that it can be pulled as well as carried. The imported parts include the side panels and bottom, the gusset with an installed zipper, handles, straps, a buckle, wheels, and other parts. In the United States these articles are assembled together with a steel frame, an ABS floor reinforcing component to which the wheels are attached, a lining, and other parts. Some of the parts listed in the imported *v.* domestic parts comparisons are registration cards, identification cards and tags, clips, washers, eyelets, rivets, studs, etc.

Law and Analysis: In our decision of April 2, 1974, ORR 74-143, file No. 031383, we held that a similar incomplete aggregation of parts constituted unfinished luggage within the rule in General Headnote 10(h) and, therefore, was classifiable under the applicable provision for luggage. The main thrust of counsel's argument in the instant matter is that that decision has been made obsolete by, or otherwise should be considered overruled as a result of, the decision in *Daisy-Heddon v. United States*, 66 CCPA 97, C.A.D. 122 (1979).

The *Daisy-Heddon* court, in dealing with the tariff classification of assembled but incomplete fishing reels, set out various guidelines which it deemed pertinent in determining whether an article was finished or unfinished. These guidelines, among other things included such considerations as balancing the number of imported parts with the number of domestic parts and comparing the costs and time involved in completing an article after importation with the costs and time involved in putting it into its condition as imported. Accordingly, counsel has attempted to demonstrate that many more parts that are made in the United States go into the production of the finished luggage than are imported, and that considerably more expense and time are involved in the United States end of the production process than in the foreign end. The argument, however, incorporates two misconceptions concerning what General Headnote 10(h) actually requires, and what the *Daisy-Heddon* court actually held.

First, with respect to the comparative costs and time analyses those considerations in the context of *Daisy-Heddon* were only applied to determine whether merchandise was unfinished within the meaning of General Headnote 10(h). General Headnote 10(h), however, deals with two situations: one where merchandise is unfinished, as in the *Daisy-Heddon* case; the other where merchandise is unassembled. Unlike the *Daisy-Heddon* merchandise which was assembled but incomplete fishing reels, the instant merchandise is both unassembled and incomplete.

While there has been much litigation and resulting case law concerning the ambiguities of what may be unfinished merchandise under General Headnote 10(h), there is less ambiguity concerning what is unassembled merchandise. While it may appear that lack of assembly and lack of finishing are essentially the same concept, the headnote rule regarding unfinished articles stems from previous tariff provisions which specifically included unfinished articles. The rule regarding unassembled articles, however, is part of the doctrine of entireties. *Tariff Classification Study Explanatory Materials*, CIE 1/64, p. 19.

We are unaware of any authority under which a finding that merchandise is an unassembled entirety under General Headnote 10(h), or otherwise, must be conditioned on comparisons of the cost of assembly with the cost of the merchandise in its condition as imported. In fact, the value of the time and effort to assemble many articles, particularly those in kit form, is often far greater than the cost of the merchandise in its imported condition. It would appear that the rule in General Headnote 10(h) regarding unassembled articles, as opposed to the rule regarding unfinished articles, is simple and absolute in nature leaving little room for interpretation. It is our opinion that the *Daisy-Heddon* guidelines concerning comparative costs and time have little, if any, application in determining if an unassembled article is to be brought within the tariff provision for the completed or finished article.

More analogous to the instant situation was the situation in *Montgomery Ward & Co. v. United States*, 61 CCPA 101, C.A.D. 1131 (1974), where the court dealt with tariff classification of an aggregation of articles which constituted both an unassembled and incomplete electric organ. That decision, which was neither impugned nor even mentioned by the *Daisy-Heddon* court, still stands as viable authority. See, for example, *General Electric Company v. United States*, Slip. Op. 81-78 (Ct. Int'l Trade, decided August 26, 1981). The *Montgomery Ward* court did not consider cost or time comparisons in arriving at its decision, and otherwise made no indication that cost or time comparisons were considered in any way. Accordingly, we are of the opinion that if time and cost comparisons have any pertinence in resolving the instant matter, only costs involved in completing the article, and not costs involved in assembling the article, can be considered. In other words, before the figures which have been offered in this matter can be used, assembly costs would have to be factored out. In doing so, we would expect that the part of the analysis which has been submitted showing that the total unit costs of the domestic parts are less than the total unit costs of the foreign parts would be closest to the most cogent comparison.

The second misconception is reflected in the proposed application of the *Daisy-Heddon* guideline under which comparisons are to be made between the number of imported parts and the number of domestic parts in the finished article. The *Daisy-Heddon* fishing reels were products of practical engineering where every part was func- ional with no wasted space or weight. In fact, the main point in he decision was that even when every part is essential, the lack of part cannot be the basis for avoiding the rule in General Head- ote 10(h) and the applicable tariff provision describing the mer- handise in finished condition.

The *Daisy-Heddon* number-of-parts-comparison guideline is not a ule for comparing supernumerary parts with basic parts. Aside om the obvious distortion in the instant comparisons, by includ- g among the domestically sourced articles a registration card, dentification card and identification tag, comparisons are to be ade between basic parts. *Montgomery Ward v. United States, upra.* The misconception concerns the fact that all of the parts ecessary in order to have an article reach the niche in the retail arket it was intended to fill are not necessarily the parts to be mpared with all of the imported parts if something less is re- ired to have the merchandise meet the common meaning of the pplicable tariff term describing the finished article. While all of e parts in a fishing reel may be the same parts necessary to meet e applicable tariff description for the finished article, that is not necessarily true for items of merchandise such as luggage or gar- ments where the addition of a particular part may be dictated more by stylistic considerations than functional considerations.

Nor is the *Montgomery Ward* rule for considering basic and es- sential parts a rule for determining tariff classification by noting the number of washers or rivets which may be absent from an ag gregation of imported parts. In our opinion, if we were to allow the part of the offered comparisons which take into account such items as clips, washers, eyelets, rivets, etc., to control classification, we would be carrying the *Daisy-Heddon* number-of-parts comparison rule to an extreme unintended by the court.

The imported parts, exclusive of the wheels, if assembled withou the addition of a frame, plastic reinforcing component and lining would constitute luggage within the tariff term even if there is question whether there would be a place for such an article in th current luggage market. In addition to the rule in General Head note 10(h), we further note the rule in Headnote 3, Subpart D, Par 1, Schedule 7, TSUS, which, in effect, states the luggage provision will not be avoided by the addition of reinforcements or linings rep resenting materials of greater value than the other materials use in the construction of the luggage. Accordingly, we do not believ allowing reinforcing components and linings to control the classif cation of incomplete and unassembled merchandise would be cons nant with the clear legislative intent that those components n control the classification of assembled and finished luggage.

Reducing this matter to basics, all of the parts necessary to for a secured enclosure with provision for carrying it, amounting to total of six basic parts, are imported, and three parts are added d mestically, primarily consisting the lining, ABS floor and ste frame. Aside from the question of whether these domestic par can even be considered basic parts entitled to comparison with t imported basic parts, their costs, using the figures provided, b pared down as indicated previously in this discussion, would shown to be less than half of the total costs of the imported par

We further believe that the foregoing comments are equally plicable to and answer counsel's contention that we must also co sider the *Daisy-Heddon* rule which requires consideration of t significance of the omitted parts to the overall function of the co pleted article. With respect to counsel's observation that the i ported merchandise is "merely a pile of repair parts," and not l gage in the commercial sense, commercial considerations, like c comparisons, are primarily only pertinent to determining wheth an article is unfinished, and not pertinent to the question of whe er it is unassembled. In the *Montgomery Ward* case, *supra,* court, in effect, only looked to the question of whether aggregati lacking the missing components were commercially sold as orga not to the question of whether unassembled organs were comm cially still considered organs. In this connection, commercial c siderations noted by the court in the *Montgomery Ward* case, *Authentic Furniture Products, Inc. v. United States*, 61 CCPA 5, C.A.D. 1109 (1973), etc. only involved commercial practices at the retail level. Under the law of entireties, from which the part of the rule in General Headnote 10(h) dealing with unassembled articles was derived, the "commercial entity" which it must be found an aggregation comprises in order to be an entirety is a more flexible and broader concept. With respect to unassembled articles, the question is not whether an imported "pile of parts" is a separate commercial entity, but whether the thing they will become is an identifiable commercial entity.

In conclusion, it should also be noted that the rule in General Headnote 10(h), like many other TSUS rules of construction, is part of the overall legislative scheme to deemphasize basket provisions. *United States v. A. Johnson & Co.*, 66 CCPA 35, 40-41, C.A.D. 1218 (1978). In the authorities cited *supra*, and in other cases, the rules in the headnotes have been applied typically to determine the relative specificity between specific parts provisions and provisions describing merchandise in finished form. However, specific competing parts provisions have not been identified in this matter, and, presumably, the competition, for the most part, involves basket provisions. Therefore, avoiding General Headnote 10(h) and a specific tariff provision for an article on the basis of legal theories of interpretation which would favor a basket provision, rather than a "strong competing provision" as referred to in *General Motors Corporation v. United States*, 65 Cust. Ct. 212, 215, C.D. 4080 (1970), aff'd 59 CCPA 109, C.A.D. 1049 (1972), could, for that reason alone, be an application of the theories to defeat rather than carry out legislative intent.

The foregoing issues, facts and discussion pertain to an importation entered in July 1981. In a letter dated November 8, 1982, counsel asserted that entries were made since August 1981 which contained aggregations of parts more incomplete than the instant aggregation primarily because either the gussets or the sides were missing. Accordingly, we have been requested to rule on the dutiable status of these later importations. It is our understanding that no duty rate advancements have been made or proposed with respect to the later entries and that no suspensions of liquidation of those entries have been authorized pending disposition of this internal advice request. However, it would be our opinion that the separation of the gussets and sides into different shipments would not result in any such shipment being classified as an entirety under the provision for luggage.

Holding: For the foregoing reasons, we affirm our previous decision in ORR 74-143, *supra*. Accordingly, the unassembled and incomplete luggage parts in question are properly classifiable as an entirety under the provision for luggage in item 706.62. This decision has no application to subsequent entries by this same importer to luggage component aggregations substantially more incomplete than the instant aggregations. A copy of this decision should be made available to the internal advice applicant.

(C.S.D. 83-61)

This ruling holds that the fumigation charges paid by importer to the foreign seller are includable in the transaction value of the merchandise. (402(b)(1)(A-E),TAA)

Date: January 28, 1983
File: CLA-2 CO:R:CV:V
542905 LPD

DISTRICT DIRECTOR OF CUSTOMS
300 South Ferry Street
Terminal Island, California 90731

Director, Classification and Value Division

Internal Advice Request Concerning the Dutiable Status of Fumigating Charges

This is in response to your memorandum dated July 19, 1982, received at Headquarters on July 27, 1982, regarding the above-captioned topic.

According to information submitted by your office and counsel, (company name) ("Importer") imports wicker products into the United States from Hong Kong and the Peoples' Republic of China. The shipments are consolidated in Hong Kong and loaded into sea van containers for shipment to the United States. Subsequent to loading, the sea vans are fumigated by dropping about eight bombs into the containers and sealing them. Counsel for Importer states that his client does not have to incur the expense of fumigating the sea vans in order to obtain the merchandise. However, your office points out that if the merchandise were not fumigated prior to shipment, much of it would be destroyed in transit.

Until the spring of 1981, Importer arranged, through its agent or the seller of the merchandise, to have the fumigation performed by independent fumigators. However, since that time, Importer has contracted directly with independent fumigators for their services.

The question presented is whether the charges paid by Importer for fumigating the containers should be included in the dutiable value of the merchandise under either export value as defined in section 402(b), Tariff Act of 1930, as amended by the Customs Simplification Act of 1956 or under transaction value as defined in section 402(b), Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (TAA).

Inasmuch as we have been advised that all of the entries appraised under export value have been liquidated, they are not current transactions within the scope of section 177.11(b), Customs

Regulations (19 CFR 177.11(b)), and may not be the subject of a request for internal advice.

As to merchandise appraised under transaction value, counsel argues that amounts paid for fumigating, whether to the seller or directly to an independent fumigator, should not be included in the transaction value of the merchandise. In regard to payments for fumigation made through the seller, counsel submits that they should be deductible from the price paid or payable in arriving at transaction value because they are "related services incident to the international shipment of the merchandise from the country of exportation to the place of importation in the United States."

Transaction value is the "price actually paid or payable for merchandise when sold for exportation to the United States" plus amounts for certain incidentals set forth in sections 402(b)(1)(A–E), TAA. The term price actually paid or payable means "the total payment (whether direct or indirect, and exclusive of any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation in the United States) made, or to be made, for imported merchandise by the buyer to, or for the benefit of, the seller."

While we agree that payments paid directly to an independent fumigator would not be includable in the price actually paid or payable for the merchandise under transaction value, we cannot agree that payments for fumigation made directly to the seller should be accorded the same treatment.

The Statement of Administrative Action submitted to and approved by Congress along with the TAA provides that the price actually paid or payable is the "total payment (exclusive of international freight, insurance, and other *C.I.F. charges*) made or to be made by the buyer to or for the benefit of the seller for the imported merchandise." (Emphasis added). We take this to mean that the "related services incident to the international shipment of the merchandise . . ." are limited to charges for costs, insurance, and freight and would not include fumigation charges.

Further, Headquarters has interpreted the phrase "total payment . . . made, or to be made, . . . by the buyer to, or for the benefit of, the seller," to mean that all moneys paid to the foreign seller are part of the price paid or payable and are includable in the transaction value of the merchandise. Accordingly, charges for quota and interest payments made to the foreign seller, as well as the payment of a refundable export tax deposit all have been held to be includable in the price actually paid or payable for merchandise under transaction value. Although we have ruled that certain payments made by the buyer to the seller may not be included in the transaction value, these payments are excluded only when they are part of an ongoing financial arrangement between the buyer and the seller and are not paid in connection with a specific transaction.

For the foregoing reasons, we believe that the fumigation charges paid by Importer to the foreign seller are includable in the transaction value of the merchandise.

(C.S.D. 83-62)

This ruling holds that where the importer does not deliver merchandise on or before the delivery date to the seller, the contract price for the merchandise may be reduced prior to shipment. The invoice price would be reduced prior to shipment and would represent transaction value for appraisement purposes under section 402(b) of the Tariff Act of 1930, as amended by the TAA of 1979.

Date: February 15, 1983
File: CLA-2 CO:R:CV:V
543014 TLL

This is in reply to your letter dated January 26, 1983, regarding certain proposed importations by your client, (Company Name)

You state that your client is an importer of children's, misses', youths' and men's footwear. You point out that the footwear business is seasonal and requires long lead times from the initial order to the actual date of importation. Your client requires its vendors to have the merchandise available for ocean shipment to the United States by specified dates. It has often occured in the past that the manufacturer did not have the merchandise ready by that specified shipment date. In order for your client to supply its various U.S. retail outlets on a timely bases, it has been necessary for them to airfreight merchandise, thus incurring substantial additional cost above the normal ocean freight rates. For the future, your client is contemplating a change in their purchase contracts to provide for this eventuality. Therefore, your client is requesting a binding ruling concerning the duty consequences of a future proposed adjustments to the original order price.

The proposed clause would be as follows:

> "Seller acknowledges that the date inserted on the front of this form under the caption "ET.D. NO LATER THAN" is the date specified herein for delivery of goods ("DELIVERY DATE"). Without limiting any other rights the corporation may have, if Seller fails for any reason whatsoever, including force majeure, to deliver all of the goods in conformity with this contract on or before the DELIVERY DATE, the contract price for the goods shall be reduced prior to shipment thereof by an amount equal to the difference between (i) the estimated cost of shipping the goods by ocean freight to the PORT OF ENTRY specified on the front of this form and (ii) the actual cost of such other faster means of transportation as may then

reasonably be chosen by the CORPORATION for transportation of the goods to the PORT OF ENTRY so as to permit the CORPORATION to maintain its schedule for the goods to the extent possible under the circumstances."

You submit that the invoice price would, therefore, be reduced prior to shipment and, in your opinion this invoice price would represent the transaction value for appraisement purposes under section 402(b) of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979. You continue that no amount beyond the value shown on the invoice would be remitted to the vendor/manufacturer. You continue that this invoice price would clearly be the price actually paid or payable within the meaning of section 402(b).

In this regard, Headquarters, United States Customs Service has reviewed your proposal carefully and agrees with your conclusion. The price actually paid or payable would take into consideration the price reductions set forth in your submitted letter.

(C.S.D. 83-63)

This ruling holds that first-in, first-out accounting may be applied to identify fungible merchandise that is commingled in storage in a Customs bonded warehouse. C.S.D. 81-62 and C.S.D. 82-35 cited.

Date: March 18, 1983
File: WAR-1-CO:R:CD:D
215360 MM

Issue: If fungible merchandise is commingled in storage in a Customs bonded warehouse, may FIFO accounting be applied to identify the merchandise in place of physical examination?

Facts: None presented.

Law and analysis: The use of FIFO (first-in, first-out accounting) is common in maintaining business inventories for fingible, *i.e.*, commercially identical merchandise. When items are commercially identical, it serves no purpose to segregate them. Neither the bonded warehouse law (title 19, United States Code, sections 1311 and 1555-1562) nor the Customs Regulations (19 CFR, part 19) require specific identification. FIFO accounting is permitted in foreign trade zones (C.S.D. 81-62) and in drawback (C.S.D. 82-35).

Holding: If fungible merchandise is commingled in storage in a Customs bonded warehouse, FIFO accounting may be employed to identify the merchandise.

(C.S.D. 83-64)

This ruling holds that the price paid or payable includes product liability insurance premiums paid by the importer to a third party insurer.

Date: April 8, 1983
File: CLA-2 CO:R:CV:V
542984 BLSform.

To: District Director of Customs, Philadelphia, Pennsylvania 19106
From: Director, Classification and Value Division
Subject: Request for Internal Advice 182/82; Product Liability Insurance Premiums

This is in reference to your memorandum dated November 5, 1982, regarding the above-captioned matter. The issue concerns the dutiable status of product liability insurance premiums paid by the importer to a third party.

The importer has now orally informed this office that it wishes to withdraw its request for internal advice. A letter to this effect is being submitted, copy to your office. While the relevant regulation (section 177.6, Customs Regulations) permits such withdrawal before final disposition, it also provides that Headquarters may forward to Customs Service field offices involved its views in regard to the particular transaction or issues.

Since the issue is not of easy resolution and is of first impression, we believe our views may be of benefit to you as a reflection of our thinking in matters of a similar nature.

BACKGROUND

In purchasing merchandise from various European sources, Importer requires that all manufacturers obtain an appropriate insurance policy covering product liability. In general, the policy will indemnify Importer from claims of customers that may arise due to infringement of any patent, copyright, or trademark; from defective merchandise; or from the failure of the merchandise to comply with specifications or warranties.

If the manufacturer is able to secure a policy of its own, suitable to Importer, then premiums are payable by the manufacturer and there would be no reference to product liability insurance on the concerned invoices.

However, if unable to secure its own suitable policy, the manufacturer must obtain the insurance coverage from the Italian insurer selected by Importer. In this instance, the manufacturer shows the cost of insurance as a deduction on its invoice to Importer. At the time the merchandise is shipped, the manufacturer is paid by Importer's bank. The money for the insurance is deducted from the invoice amount and is identified as such on the letter of credit drawing. Thus, the manufacturer receives a net payment for the merchandise. The moneys deducted for the insurance premiums are held in an escrow account by the bank handling the transaction and subsequently paid to the insurer. Importer retains a copy of the insurance certificate and the original certificate of insurance is issued to the manufacturer, in its name.

Importer contends that the insurance premiums are not dutiable ince they are not part of the price paid or payable for the merchandise, nor do the premiums provide any benefit to the manufacurer. Rather, Importer argues that such payments are made to the nsurer and benefit only Importer, since the manufacturer is not elieved of any liability from a claim that might be covered under he policy.

You believe that the premiums are not part of transaction value ince they do not form part of the total payment made by the buyer to the seller for the merchandise within the meaning of secion 402(b)(4)(A), Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (TAA).

On the other hand, our New York office is of the opinion that ince Importer requires the manufacturer to obtain such insurance, t is an integral part of the merchandise.

In our opinion, the premium payments should be treated as indiect payments made to the manufacturer, and accordingly, are part of the price paid or payable. We reach this result based on the fact hat as a condition of the sale the manufacturer was required to btain suitable insurance, and bear the cost thereof. The fact that he Importer paid the third party insurer directly does not negate he fact that the insurance was in the manufacturer's name, and hat the invoice reflected a deduction for the insurance premium. We see no substantive difference between this situation and where he manufacturer makes the premium payments. In each instance, he policy is owned by the manufacturer and is required as a condiion of the sale.

(C.S.D. 83-65)

This ruling holds that the Discrepancy Report and Declaration (CF 5931), which is used by both the carrier industry and by Cusoms officers to report discrepancies between quantities of merhandise as manifested and quantities actually imported, is not a part of the manifest and may not be incorporated into the Cargo Declaration (CF 1302). (19 U.S.C. 1431(a))

Date: April 15, 1983
File: VES-5 CO:R:CD:C
105939 DHR

This is with reference to your letter dated December 10, 1982, oncerning Norfolk District Information Bulletin No. 311. You take xception to paragraph 1 of that Bulletin which states that the nward foreign manifest must set forth the number and description of merchandise according to its smallest external packing unit and hat the practice of providing a pallet or skid breakdown on the Discrepancy Report and Declaration (CF 5931) will not be acceptale.

The fourth paragraph of subsection (a) of section 431, Tariff Act of 1930, as amended (19 U.S.C. 1431(a)), specifies that the inward foreign manifest shall contain ". . . a *detailed* account of *all* merchandise . . . with the marks and numbers of *each* package [emphasis added] . . ." The form of the manifest is to be prescribed by the Secretary of the Treasury. A "detailed account" is interpreted as a listing of the cargo with sufficient exactness so as to serve the legitimate needs of the Customs Service in identifying merchandise brought into the country in order to collect and protect the revenue. It follows that the Customs Service itself, pursuant to the statutory grant of authority to the Secretary of the Treasury to prescribe the form of the manifest, must necessarily determine how detailed the account of merchandise should be.

Customs Form 5931 has *not* been designated by the Secretary as a part of the manifest. Section 4.7a of the Customs Regulations sets forth the Customs forms which comprise the inward manifest. Customs Form 5931 is, as its title implies, used by both the carrier industry and by Customs officers to report discrepancies between quantities of merchandise as manifested and quantities actually imported. There is no authority in law or regulations by which a Customs Form 5931 can be incorporated by reference into a manifest (specifically, the Cargo Declaration on Customs Form 1302), either by the use of an asterisk or by other words or marks.

In summary, the account of imported merchandise must be set forth with specificity sufficient for Customs purposes on Customs Form 1302, which *is* a part of the manifest. However, there is nothing in the law with respect to manifests which would preclude the setting forth of footnotes or other explanatory addenda on that form.

(C.S.D. 83-66)

This ruling holds that the requirement of return of merchandise to Customs custody cannot be waived for a drawback claim under 19 U.S.C. 1313(c); however, if it is found that the claimant was aware of the requirements of the applicable statutes and regulations and that failure to meet those requirements was based on mistake or inadvertence, relief may be granted under 19 U.S.C. 1520(c)(1), provided the claimant can prove that the merchandise was shipped without its consent and that the merchandise was exported

Date: August 28, 1981
File: DRA-1-09-CO:R:CD:D
213382 B

District Director of Customs,
Philadelphia, PA.

Director, Carriers Drawback and Bonds Division

Internal Advice—Drawback—Return to Customs Custody—19 U.S.C. 1313(c)—Your Request of August 5, 1981 CLA-2-DD:CV:MAM

Re: (company name)

Facts: The referenced company made applications for drawback under 19 U.S.C. 1313(c) on April 2, 1981, for merchandise exported in January and May of 1980. The exported articles were returned abroad because they were allegedly in excess of the quantity ordered. The company states that the failure to return the excess to your custody before exportation, as required by the law and regulations was occasioned by inexperience of its personnel.

It is your position that the applications must be disallowed since the requirement of return to Customs custody prior to exportation is statutory and cannot be waived.

Law and analysis: Section 1313(c), Title 19, United States Code, specifically requires that merchandise upon which drawback is sought must be timely returned to Customs custody. Section 22.32(a), Customs Regulations requires the claimant to state on the Drawback Entry Form (CF 7539) the place where the merchandise is to be placed in Customs custody for examination. It has long been fundamental to drawback law that drawback claimants must adhere to the requirements set forth in the applicable statutes and regulations. See *U.S. v. W.C. Hardesty Co.*, 36 CCPA 47, C.A.D. 396 (1949); *Spencer Kellogg & Sons v. U.S.* 13 Ct. Cust. Appls. 612, T.D. 41459 (1926).

Section 1520(c)(1), Title 19, United States Code, provides for the reliquidation of any entry, despite the time contraints of 19 U.S.C. 1514, to correct a mistake of fact or clerical error not amounting to error in construction of the law. This reliquidation can occur if the mistake is brought to Customs attention within one year of the entry date or 90 days of liquidation, if liquidation occurred nine months after the date of entry.

We have long held that ignorance of the requirements of statutes and/or regulations is considered an error in construction of law, thereby rendering 19 U.S.C. 1520(c)(1) inapplicable. If, however, the requirements are known to the applicant, and the applicant or his agent fails to follow instructions or otherwise fails to meet the requirements through mistake or inadvertence, a case for relief under that statute may be had.

Holding: Your position that the requirement of return to Customs custody cannot be waived is correct. However, treating the claimant's allegation that failure to return the merchandise to your custody was based on inexperience as a timely claim pursuant to 19 U.S.C. 1520(c)(1), if you find that the claimant was aware of the requirements of the statute and regulations and that its employees failed to follow a company policy of meeting those requirements through mistake or inadvertence, you may grant relief under 19 U.S.C. 1520(c)(1), provided the claimant can prove the merchandise was shipped without its consent and that the merchandise was exported. Otherwise you must liquidate the entries "No Drawback."

(C.S.D. 83-67)

This ruling holds that a company must maintain complete accounting records for all articles, wastes and irrecoverable losses resulting from processing of TIB materials in order to qualify for accelerated payment of drawback. (19 CFR 22.20a)

Date: February 18, 1983
File: CON-9-CO:R:CD:D
215408 RB

Issues: (1) Whether a company's TIB (temporary importation under bond) program would be disqualified in its entirety where lots (entries) of fungible TIB and duty-paid material are commingled in production; if not,

(2) How may the TIB lots be accounted for under the circumstances presented;

(3) Whether C.S.D. (Customs Service Decision) 79-254 would prohibit the use of certain internal company documents to account for the TIB lots pursuant to Headnote 2(b)(i), Schedule 8, Part 5, Subpart C, Tariff Schedules of the United States (TSUS).

(4) Whether denial of the company's request for accelerated payment of drawback is reasonable based upon deficiencies in its TIB program.

Facts: A company imported lots of unfinished fungible garment and boot crust leather temporarily under bond (Item 864.0520, TSUS) sending them, together with a small quantity of fungible, duty-paid leather, to various independent tanners for processing. The tanners commingle the TIB and duty-paid lots in production resulting in a loss of specific identity thereof. The majority of the commingled material was exported, although some was concededly sold on the domestic market.

Additionally, tickets containing production information which has been attached to some of the lots were destroyed due to a fire at one of the tanners. However, other records such as packing lists, work orders, and tanners' invoices were available to acount for the processed materials under Headnote 2(b)(i).

Because of the impossibility of specifically identifying the TIB lots, a Customs audit report recommended that the company's TIB program be disqualified in its entirety. As a result, 67 TIB entries filed by the company throughout 1978 and 1979 have been assessed with penalties.

Subsequently, the company instituted a drawback program for its duty-paid leather and, pursuant thereto, requested accelerated payment of drawback which was denied under section 22.20a, Customs Regulations, due to the deficiencies in its TIB program.

Law and analysis: (1) and (2) The mere commingling in production of fungible lots of TIB and duty-paid materials resulting in a loss of identity of the specific lots would not per se disqualify a TIB program in its entirety. To account for TIB merchandise we generally follow identification procedures established for drawback purposes. Accordingly, TIB entries covering fungible, commingled material under the circumstances presented in this case made on or after September 2, 1981, would be permitted to be accounted for using the first-in, first-out (FIFO) accounting principle as approved on that date for direct identification drawback (See Headquarters memorandum dated September 2, 1981, DRA-1-CO:R:CD:D 213253 RB, to all Regional Commissioners, from the Assistant Commissioner, Commercial Operations; also see C.S.D. 82-35; C.S.D. 82-63; Headquarters letter DRA-1-CO:R:CD:D 214330 RB; Headquarters letter DRA-1-CO:R:CD:D 213460 RB).

However, because the TIB entries involved in the present case relate to 1978 and 1979, FIFO as approved for direct identification drawback would be inapplicable inasmuch as it was not in effect at that time. Furthermore, C.I.E. 839/57, C.S.D. 81-127 and Headquarters letter CON-9-04-CO:R:CD:D 211890 MM, cited by the company, are also inapplicable in the present case since they prohibit the commingling of fungible TIB and non-TIB lots and require that all commingled TIB lots be exported.

Instead, the method which must be used in this case to account for the commingled TIB lots is prescribed in Bureau letter dated February 15, 1961, file 731.1 L to the Supervising Customs Agent, Chicago, re: (Company Name) Specifically, this method requires that from the commingled material the TIB lots be identified first, initially against all shipments therefrom for domestic consumption with penalties assessed accordingly for failure to export as required, then against export shipments until the TIB lots are exhausted, with identification of the lots being made on a higher to lower basis assuming different dutiable values therefor (ibid, p. 2, paragraphs 1-3).

(3) Pursuant to Headnote 2(b)(i), Schedule 8, Part 5, Subpart C, TSUS, the records maintained by a company must be sufficient to

READEX FICHE pages tightly bound

enable a complete accounting for all articles, wastes and irrecoverable losses resulting from the processing of TIB materials. If such records are lost or destroyed equity demands that an opportunity be given to comply with this requirement by reconstruction or other alternative means (note *e.g.* C.S.D. 82-30). By way of illustration, concerning the types of records which have been acceptable for accounting purposes in a drawback context (*e.g.*, finishing orders, trucking receipts, invoices, packing orders, etc.) see Headquarters letter dated June 15, 1971, file DB 731.1 S, to Regional Commissioner of Customs, New York, re: (Company Name) Thus, C.S.D. 79-254 erroneously cited in the audit report as C.S.D. 79-25 is inapplicable in this connection inasmuch as it pertains only to acceptable proof of exportation which is not involved herein.

(4) Section 22.20a, Customs Regulations (19 CFR 22.20a), provides that a drawback claimant is eligible for accelerated payment of drawback if the regional commissioner of Customs determines that the claimant is "not delinquent or otherwise remiss in transactions with Customs * * *." Based upon the circumstances presented in this case regarding the company's TIB program, we conclude that the regional office in New York acted reasonably in denying the company's request for accelerated payment of drawback.

Holdings: The answers to the questions presented in this case are as follows:

(1) No.

(2) From the commingled material, the TIB lots should be identified first, initially against all shipments therefrom for domestic consumption with penalties assessed accordingly, then against export shipments until the TIB lots are exhausted, with identification of the lots being made on a higher to lower basis assuming different dutiable values therefor.

(3) No.

(4) Yes.

(C.S.D. 83-68)

This ruling holds that the U.S. Customs Service will not substitute judgement for that of the field office concerning same condition drawback claims when an importer fails to give prior notice of exportation unless the field office acts arbitrarily. (19 U.S.C. 1313(j))

Date: February 25, 1983
File: DRA-1 CO:R:CD:D
215299 B

A claim for drawback under 19 U.S.C. 1313(j) was filed on July 22, 1982, for a cushion ruby weighing 18.42 carats and its yellow gold mounting. The ruby was entered free of duty on May 11, 1982 but a notice of increase was issued June 25, 1982, because the ruby

nd mounting were deemed to be an entirety. The question of
hether the ruby was in fact free of duty will not be addressed fur-
her. The ruby was exported on June 2, 1982, without prior notice
Customs.

Counsel for the importer of the ruby and mounting has asked
hat you request internal advice as to whether drawback under 19
.S.C. 1313(j) can be had absent prior notice and examination, and
not, whether any or all of three alternatives presented by coun-
el may be adopted in lieu of prior notice and examination. These
lternatives will be discussed below.

Currently, there are no regulations governing the operational
unctions of same condition drawback, although proposed drawback
egulations have been published. Pending publication of these regu-
ations as a final rule, operating instructions were issued under au-
hority of 19 U.S.C. 1313(k). These instructions require that a Cus-
oms Form 7539 be filed with the district/area/port director at
east 12 working days prior to exportation. However, Customs can
aive this requirement, either before or after exportation, if it is
atisfied that the merchandise was exported in the same condition
s when imported. Headquarters does not review a decision in this
egard made by a field office unless there is an allegation that the
ficial acted arbitrarily or capriciously.

Counsel for the importer/claimant asks, in the event waiver of
xamination after the fact of exportation is not granted, that one
all of the following alternatives be afforded his clients:

(1) The ruby and mounting be returned to the United States for
ntry under a temporary importation bond for examination by Cus-
oms;

(2) The ruby and mounting be returned to the United States
nder two separate consumption entries, after which they would be
xamined and exported, same condition drawback being allowed on
oth the prior and later importations/exportations;

(3) A Customs officer be sent to the present location of the mer-
handise in Switzerland, at the expense of the claimant, and have
e ruby and mounting examined on site.

None of the alternatives is legally viable. The same condition
rawback law requires that the imported merchandise be in the
me condition as imported at the time of exportation. Each claim
r drawback under this provision must stand on its own merits.
hat is, the claimant must show importation, non-use or change in
ndition except as allowed by the law, and exportation, in accord-
ce with the law and applicable operating instructions. At the
me of exportation, Customs must be satisfied the merchandise is
the same condition as when imported. Once exportation occurs,
e cycle is complete; and the claim must be governed by that par-
ular importation, no change in condition, and exportation. An-
her importation and exportation without change in condition

does not prove previous importation and exportation withou change.

Counsel may cite C.S.D. 81-215 of May 7, 1981, in support having the merchandise reentered, then exported with drawbac from both entries ensuing. However, the noted ruling involved tw importations, two manufactures, and two exportations of the sam merchandise under the manufacturing drawback law, and complet compliance with the applicable regulations. This ruling would b applicable to same condition merchandise which was twice impor ed and twice exported if, prior to both exportations, notice wa given to Customs. The claimant would be allowed to amend th claim to cover both entries, to spare both the claimant and Cu toms duplication of paperwork.

As for sending a Customs officer to Switzerland for examinatio of the ruby and mounting, any examination after the fact of expor tation, when Customs determines that an examination was nece sary, does not conclusively show that the merchandise was in th same condition at the time of exportation, whether the examina tion is conducted inside or outside the United States.

We note that you refer to "exportation under Customs superv sion" in your memorandum. The law requires only that destructio be under Customs supervision, since the law reads: "Exported i the same condition as when imported, or (ii) destroyed under Cu toms supervision * * *." Those provisions are written in the di junctive, and "under Customs supervision" modifies "destroyed only, and not the term "exported."

(C.S.D. 83-69)

This ruling holds that merchandise entered for warehouse ma not be withdrawn for TIB entry. A warehouse entry may b amended to a TIB entry within one year from date of importa tion (19 CFR 10.31(g))

Date: March 8, 198
File: CON-9-CO:R:CD:D
213304 L

Issue: May merchandise which has been entered for warehous be withdrawn from warehouse for admission temporarily free duty under bond? What effect would the length of time the me chandise had been in warehouse have on this determination? Ma a portion of a warehouse entry be withdrawn for admission temp rarily free of duty under bond and a portion withdrawn as a reg lar warehouse withdrawal?

Facts: No facts are presented.

Law and analysis: While there is no express statutory prohib tion against making a temporary importation under bond (TIB from a bonded warehouse, the relevant statute, 19 U.S.C. 1557, ca be intepreted as implicitly prohibiting that procedure. The second sentence of the statute expressly provides for the types of withdrawal that may be made from a bonded warehouse. The absence of TIB entries from that listing is significant.

In addition, permitting a TIB entry from warehouse creates and anomaly in that there would be two entries covering the same merchandise, one of which is required to be liquidated (19 CFR 159.52) and one of which is not liquidated (19 CFR 159.2), and in that the warehouse period is five years from date of importation while the initial TIB period is one year from date of importation. Because a TIB entry is not an exportation or an entry for consumption, the five year warehouse period would continue to run on merchandise entered under TIB, the warehouse entry could not be liquidated until exportation or destruction, and the person who made the withdrawal would have to satisfy two different bond periods.

Finally, there is a problem with importation. The date of importation is defined in 19 CFR 101.1(h). Since the time period for warehousing is longer than that for TIB Customs would be obliged to maintain tight controls to insure that a TIB entry of warehoused goods was not approved after the first one-year period had expired. Such an approval would be in violation of Headnote 1(a), Schedule 8, Part 5C, Tariff Schedules of the United States (TSUS).

It is our opinion that a TIB entry may not be made on merchandise withdrawn from a bonded warehouse. However, 19 CFR 10.31(g) provides in part that:

> Claim for free entry under Schedule 8, Part 5C, TSUS, may be made for articles of any character described therein which have been previously entered under any other provision of law and the entry amended accordingly upon compliance with the requirements of this section, provided the articles have not been released from Customs custody * * *.

Merchandise entered for warehouse is deemed to be in Customs custody and we see no objection to amending the warehouse entry to a TIB entry. Note that 19 CFR 10.31(G), further provides that if an entry is so amended, the bond period shall be computed from the date of importation.

The answer to the second issue then is that the length of time the merchandise has been in warehouse does have an effect upon whether a TIB entry may be substituted for a warehouse entry. Since the initial period of a TIB entry is one year from the date of importation, it follows that a TIB entry must be made within one year from the date of importation. Extensions of the TIB period do not become available until a TIB entry has been submitted. Accordingly, amendment of a warehouse entry to a TIB entry must be made within one year from the date of importation. A warehouse entry covering merchandise that has remained in warehoue for more than one year cannot be amended to a TIB entry.

With respect to the third issue, whether a portion of the merchandise covered by a warehouse entry may be entered under TIB we reiterate our opinion that a TIB entry may not be made from warehouse.

However, we perceive no objection to timely amending a warehouse entry to permit substitution of a TIB entry for a portion o the merchandise covered by the warehouse entry with a corresponding amendment of the warehouse entry. Such a procedure would appear to be contemplated by 19 CFR 141.52(c) and (g).

We would note that our files contain a copy of a letter dated September 29, 1971 (DB 516.5 ED) indicating that the Customs Service has held that merchandise entered for warehouse may be withdrawn for purposes of temporary entry under bond. The letter does not contain an analysis of the issues but cites a ruling dated January 27, 1960. We have been unable to locate the referenced 1960 ruling. However, the Customs Regulations in force at that time under section 308 of the Tariff Act of 1930, as amended, the predecessor of Schedule 8, Part 5C, TSUS (19 U.S.C. 1202), were substantively similar, and we assume that a similar result was reached.

Holding: Merchandise entered for warehouse may not be withdrawn from warehouse and entered under TIB. However, if merchandise has been entered for warehouse, and it is subsequently desired to make a TIB entry of all or a part of the warehouse entry the entry may be amended to a TIB entry within one year from date of importation as provided in 19 CFR 10.31(g).

(C.S.D. 83-70)

This ruling holds that in the absence of documentation to substantiate that a responsible Customs officer refused to permi the timely filing of drawback entries pending approval of drawback contract, an extension of time to complete a drawback entry may not be granted under section 22.13(a) of th Customs Regulations

Date: March 9, 1983
File: CO:R:CD:D
215153 K

Re: Request for further review of Baltimore Protest No. 1303-2 000093 dated April 12, 1982

The following is in reply to the request for further review of th above-referenced protest.

Issue: Whether an extension of time may be granted to complet a drawback entry when the failure to timely complete the entry i due to the refusal of a responsible Customs officer to permit th filing of the entry pending the approval of a drawback contract.

Facts: The protestant withheld the filing of drawback entrie until a revised substitution contract (rate) was approved by Head quarters to cover additional procedures. The entries were not timely filed within three years after the exportation of the articles for drawback. The protestant claims the entries were not timely filed due to delay in obtaining approval of a new contract from Headquarters and that a Customs field representative advised the protestant that the entries could not be filed until the contract was approved.

Law and analysis: Section 22.13(a) of the Customs Regulations requires, in part, that "a drawback entry and certificate of manufacture shall be filed within 3 years after the date the articles are exported" and that claims not completed within the 3-year period" shall be treated as abandoned and no extension will be granted unless it is established that failure to complete the claim within 3 years was occasioned by the action of a responsible Customs officer."

Section 22.4(1) of the Customs Regulations permits the filing of drawback entries pending approval of a proposed contract "but such entries shall not be liquidated (paid) until the rate has been established." Accordingly, the protestant could have timely filed the entries pending the approval of the contract. However, a finding that a responsible Customs officer refused to permit the protestant to file drawback entries under section 22.4(1), would establish that the failure to file timely entries was occasioned by the action of a responsible Customs officer and an extension of time may be granted under section 22.13(a).

There is no documentation to substantiate that a Customs officer refused to permit the filing of entries pending the approval of a contract. Further, there is no confirmation from field personnel that the claimant was given non-binding oral advice not to file the entries.

Holding: In the absence of documentation that a responsible Customs officer refused to permit the timely filing of drawback entries pending approval of a drawback contract, you are directed to deny the protest.

Your file is returned to the District Director, Baltimore.

(C.S.D. 83-71)

This ruling holds that repairs to U.S.-flag vessels used in continuous trade between foreign countries are required to be declared and entered at the first U.S. port of arrival pursuant to 19 U.S.C. 1466(a)

Date: March 10, 1983
File: VES-13-18 CO:R:CD:C
105921 JL

To: Pacific Region, Vessel Repair Liquidation Unit, San Francisco.
From: Director, Carriers, Drawback and Bonds Division.
Subject: Request for Internal Advice, VES-13-CV: LIQ BZ December 15, 1982 (corporation name).

This refers to the brief filed simultaneously in New York and San Francisco by (attorneys) on behalf of (corporation name)

The position of (corp.) can be briefly summarized as follows:

> (1) Certain vessels operated by it in exclusive foreign-to-foreign service for several years should not be subject to the duties provided for in 19 U.S.C. 1466(a) because such service is not "foreign trade."
>
> (2) Assessment of duties on expenditures by and for these vessels is not within the intendment of the statute because the procurement of repairs for them did not deprive American shipyards of the work.

(1) Approximately eight pages of the brief address the issue of what is "foreign trade." We had occasion to consider essentially identical arguments in case 102652/102298. We denied relief in that case and noted that "* * * we do not distinguish 'foreign trade' from 'trade between * * * foreign countries'." Notwithstanding that however, it is our opinion that whether or not the vessels at issue were or were not engaged in foreign trade during the period covered by the entries is not the proper issue for consideration. 19 U.S.C. 1466(a) states that certain American-flag vessels shall be subject to the statute. They are "vessels documented * * * to engage in the foreign or coasting trade and vessels intended to be employed in such trade." The vessels at issue are conceded by (corp.) to be documented by the U.S. Coast Guard with registers, that is, they are documented to engage in foreign trade. Whether or not they choose to engage in such trade, whatever its definition may be, is irrelevant as long as they are so documented during the period covered by the vessel repair entries. See *South Corporation and Seal Fleet, Inc.* v. *U.S.* Appeal No. 82-19, U.S.C.A. Fed. Cir., October 28, 1982.

(2) In his brief the attorney for (corp.) quotes from parts of the *Erie Navigation Co.* v. *U.S.* case. The *Erie* case, C.D. 4820, involved an American-flag vessel which obtained repairs in Canada and challenged the imposition of vessel repair duties on constitutional grounds, all of which were rejected by the Customs Court. There is an important factual similarity between this case and *Erie*. In *Erie* the owner claimed that the expense of proceeding to an American port for repairs was so economically burdensome as to render the repair statute unconstitutional. The court noted that such an argument does not present "an issue of constitutional magnitude." The argument presented by the attorney here is that the (corp.) vessels "as a practical matter" could not have returned to the United States for repairs. However, the *Erie* court clearly addressed that situation when it stated:

> It is implicit in plaintiff's argument that it has the option to choose where the repairs will be made. It cannot complain that, as a consequence of its choice, the statute imposes a monetary burden. (citing authorities)

(Corp.) asks us to infer an exception to the statute's application by implementing its "clear and 'common meaning'", that is, to except vessels which do not operate between the United States and foreign countries because repairs will be effected in foreign ports to the detriment of domestic shipyards, notwithstanding the existence of the statute.

Six specific exceptions from the payment of the duty are set forth in 19 U.S.C. 1466. One of them, subsection (e), provides an exception for certain vessels which are utilized exclusively outside the United States for two or more years. (Corp.) vessels do not qualify for this exception because they carry cargo. Where the general rule is established by a statute with exceptions, courts will not curtail the former or add to the latter by implication. It is a general rule of statutory construction that an express exception excludes all others. See 82 C.J.S. Section 382. It is our opinion that no inference can be made to except (corp.) vessels from the payment of these duties when the Congress has expressly provided an exception for similarly situated vessels subject to 19 U.S.C. 1466.

Accordingly, we are of the opinion that expenditures made outside the United States for repairs, parts, and equipment for American-flag vessels which are documented for foreign trade and utilized continuously in trade between foreign countries are required to be declared and entered at the first U.S. port of arrival pursuant to 19 U.S.C. 1466(a).

(C.S.D. 83-72)

This ruling follows the holding of C.S.D. 81-76 in which the facts are similar to those here. Where the agent (B or C) agrees with the principal (A) to repurchase the merchandise after "use" there is an inference that the initial sale was made in order to create a climate for the allowance of drawback rather than to create a valid principal-agent relationship. Under the circumstances set forth in this ruling, the record shows a misinterpretation of the requirements of T.D. 55207(2) rather than an intention to defraud the revenue

Date: March 11, 1983
File: DRA-1-CO:R:CD:D
215486 K

Re: Request for further review of protests numbered 1801-0-00035 and 1801-0-00036, dated May 29, 1980.

The following is in reply to your request for further review of the above-referenced protests.

Issues: 1. Whether a bona fide principal and agent relationship exists under Treasury Decision (T.D.) 55027(2) for substitution drawback when the agent who uses the imported designated merchandise agrees under its contract to repurchase the manufactured articles from the principal.

2. Whether the record supports a finding for probable cause to believe that there was fraud in the case in order to reliquidate a drawback entry.

Facts: Under protest numbered 1801-0-00035, the drawback claimant protests the denial of drawback for articles covered by Drawback Entry 808628, dated September 11, 1978, which was liquidated on January 18, 1980, and reliquidated on April 4, 1980. The reliquidation was under the authority of 19 U.S.C. 1501 which permits an appropriate Customs officer on his own initiative to reliqui date an entry in any respect within 90 days from the date of the original liquidation.

Under protest numbered 1801-0-00036 the drawback claiman protests the reliquidation on April 21, 1980, and the denial of draw back for articles covered by Drawback Entry 804733, dated Apri 12, 1978, which was originally liquidated with an allowance o drawback on May 19, 1978. The reliquidation and denial of draw back was under the authority of 19 U.S.C. 1521 which permits th appropriate Customs officer who finds probable cause to believ there is fraud in a case, to reliquidate an entry within two year after the date of liquidation.

The facts that follow are essentially the same in each protes except for the manner of reliquidation of the drawback entries.

Producer B had purchase orders for two shipments of foreig concentrated orange juice for manufacturing (COJM) but did n have sufficient funds to pay for the shipments and the impo duties. B also did not have pending foreign orders for orange jui products produced with the use of COJM to obtain drawback und 19 U.S.C. 1313(b). Further, B had commitments of future contrac with (Corporation Name) for frozen concentrated orange juice produced with the use of the COJM.

Producer A had domestic COJM for use in the production of orange juice products to meet its substantial foreign orders. However, A did not have sufficient imported COJM for purposes of substitution drawback.

Under the circumstances, A and B entered into an agreement dated September 6, 1977 (presumedly to comply with T.D. 55027(2)), to obtain drawback for the benefit of both.

> A agreed to pay for the two shipments of COJM and the duties, file for drawback (refund of the duties) and accept B's note for repurchase of the products produced with the use of COJM.
>
> B agreed to process the COJM at no charge for the account of A, furnish A with Certificates of Manufacture and Delivery (to enable A to claim drawback), repurchase the manufactured products and hold A harmless for any loss.

The agreement would net A approximately $115,000 and give B the necessary capital to import the COJM, process it, and repurchase it to meet its commitments such as its contracts with the futures market.

Essentially, with the use of a letter of credit, a promissory note, and direct payments, A and B carried out their agreement although formal invoices and bills of sale may not have been used.

Law and analysis: Section 1313(b), title 19, United States Code, in compliance with Part 22, of the Customs Regulations, provides, in part, that when imported duty-paid merchandise and duty-free or domestic merchandise of the same kind and quality *are used in the manufacture or production of articles* within three years from the receipt of the imported merchandise *by the manufacturer or producer*, drawback shall be allowed on exportation of the articles notwithstanding the fact that none of the imported merchandise was actually used in the manufacture or production of the exported articles.

For drawback to accrue under section 1313(b), a manufacturer must use in the manufacture or production of articles both imported duty-paid merchandise and duty-free or domestic merchandise of the same kind and quality. Further, the manufacturer of the exported articles on which drawback is claimed must use in manufacture the imported duty-paid merchandise which is designated as the basis for the claim. It will be noted that the criterion is *use*, not ownership.

There are instances where a company owns imported designated merchandise but has no factories or its factories are overworked and the company contracts with others to use the designated merchandise in the manufacture or production of articles. A strict and unnecessary interpretation of the term "use" would deny this company the benefit of drawback. Treasury Decisions 55027(2) and

55207(1) (1960) clarified the concept of the term "use" for substitution drawback to cover such instances. These decisions describe situations where merchandise which is "owned by" A and furnished by A to B or C for use by B or C in the manufacture of products for the account of A in accordance with the terms of a contract between A and B or C, is used by A for purposes of substitution drawback.

The term "owned by" as it appears in these decisions is defined in *Black's Law Dictionary*, as follows:

> Although these words may be used synonymously with "belonging to" or "forming part of"; * * * *in a stricter sense they denote an absolute and unqualified title*, whereas the words "belonging to" do not import that the whole title to property or thing is meant, for a thing may belong to one who has less than an unqualified and absolute title. (Emphasis added)

Black's Law Dictionary also defines the terms "own" and "owner" as follows:

> Own—To have a good legal title; to hold as property; to have a legal or rightful title to; to have; to *possess*. (Emphasis added)
>
> Owner—The person in whom is vested the ownership, dominion, or title of property * * * He who has dominion of a thing, real or personal, corporeal or incorporeal, which he has a right to enjoy and do with as he pleases, even to spoil or destroy it, as far as the law permits, unless he be prevented by some agreement or covenant which restrains his right.

Published T.D.'s 55027(2) and 55207(1) are synopses of unpublished rulings that were circulated throughout the Customs Service as C.I.E. 198/60 and 1153/60. These unpublished rulings clearly show that it was contemplated that A "will at all times retain title" to the designated and finished products and that B (or C) will charge A for the processing. These rulings were further clarified by an unpublished letter dated February 27, 1975 (202452), distributed by the Customs Information Exchange to Customs personnel as O.R.R. Ruling 75-0069. It was finally published for the general public as C.S.D. 81-76 (1981). This ruling held that where the agent (B or C) agrees with the principal (A) to repurchase the merchandise after "use" there is an inference that the initial sale was made in order to create a climate for the allowance of drawback rather than to create a valid principal-agent relationship. The illusion of an agency relationship is destroyed by the fact that the actual processor of the raw material operated in reality as the owner of the raw material and finished articles. The facts in that ruling are similar to the facts in the protest under review in which the agent (B) who owned the designated material and had contract commitments to meet for the finished products, agreed to sell the raw material to A, process the material for the account of A and repurchase from A the finished products to meet the prior contract commitments of B.

The protestant notes that there are other definitions for the terms "own" and "owner" such as for a bailor-bailee relationship, for an insurable interest, and for a security interest with subrogation rights. However, T.D.'s 55027(2) and 55207(1) specifically cites the term "owned by" which technically and legally sets forth the type of ownership contemplated by those decisions.

Part 177 of the Customs Regulations provides the means for any person engaged in any transaction affected by the Customs laws to obtain a binding ruling by the submission of a written request. The parties failed to do so in this case. Further A and B did not have applicable drawback rates (contracts) authorizing the use of the principal-agent relationship and did not submit new proposals under Part 22 of the Customs Regulations to include the relationship containing the repurchasing clause.

We are satisfied that the designated imported merchandise which is the subject of both protests was not "owned by" the protestant (A) within the purview of T.D. 55027(2). A denial of Drawback Entry 808628 (Protest Numbered 1801-0-00035) under the authority of 19 U.S.C. 1501 is sustained.

Under section 1514, title 19, United States Code, the liquidation of drawback entries, with certain cited exceptions including 19 U.S.C. 1521, become "final and conclusive upon all persons" (including the United States Government) within 90 days after the date of liquidation. Drawback Entry 804733 was liquidated on May 19, 1978, with an allowance of drawback. However, the entry was reliquidated within 2 years on April 21, 1980, with a denial of drawback under the authority of 19 U.S.C. 1521.

It is well settled law that upon a timely protest to a reliquidation, the burden of proving that the appropriate Customs officer had probable cause to believe there is fraud in a case based on the record that the officer had at the time he ordered the reliquidation under 19 U.S.C. 1521, rests on the part of the Government. See *F. Vitelli & Son* v. *United States,* 250 U.S. 355 (1919); *United States* v. *Waterbury Lock & Specialty Co.,* 35 CCPA 131, C.A.D. 384 (1948); *A.N. Deringer, Inc.* v. *United States,* 59 Cust. Ct. 148, C.D. 3101 (1967); *Sweet Briar, Inc.,* v. *United States,* 73 Cust. Ct. 93, C.D. 4558 (1974); *John S. Connor* v. *United States,* 37 Cust. Ct. 74, C.D. 1800 (1956); *Border Brokerage Co., Dahl Fish Company Et Al* v. *United States,* 44 Cust. Ct. 86, C.D. 2157 (1960).

The record upon protest must prove that the appropriate Customs officer who made the finding believed that the drawback entry was made on the basis of false documents, known to be false, and, to his knowledge the false documents were relied upon by the Customs officials to the detriment of the revenue of the United States. See by analogy *Border Brokerage Co., Et Al.* v. *United States,* supra, page 94 in which the record established that the Customs officer had probable cause to believe there was fraud when the consumption entries were made on the basis of low weights,

known to the importer to be false, and, to his knowledge, relie
upon by Customs officials to the detriment of the revenue of th
United States.

The record shows that B, the user of the imported merchandis
furnished the drawback claimant (A) with a Certificate of Manufa
ture and Delivery which was presented with Drawback Entr
804733. The document which certified that B processed the impor
ed merchandise for A gave notice to Customs that a principal-age
relationship was claimed for drawback under T.D. 55027(2). A
though A and B did not have formal approval for procedures und
T.D. 55027(2), Customs paid the drawback under the acclerat
drawback procedures and liquidated the entry with an allowance
drawback rather than withholding liquidation pending a reque
for documentation to establish compliance with T.D. 55027(2). W
note that Customs did withhold liquidation of subsequent drawba
entries pending receipt of documentation.

Customs did not rely on the agreement of September 6, 1977,
the detriment of the revenue because, it did not have the docume
when the entry was liquidated with an allowance of drawback
May 19, 1978. Further, it is presumed that with the knowledge
the unpublished rulings clarifying the type of ownership conte
plated by T.D. 55027(2), that Customs officials would not have
lowed drawback upon the submission of the agreement contain
the repurchasing clause.

The binding contract between A and B essentially complied w
T.D. 55027(2) other than for the repurchasing clause. The le
ramifications of the terms "own", "owner", and "owned by" are
tremely complex in relationship to T.D. 55027(2) in the absence
the clarifying rulings. The record shows that A, the protestant, h
an ownership right (security interest) in the imported designa
COJM but not the type of ownership contemplated by T.D. 55027
There is no indiction in the record that A and/or B had knowled
at the time in question, of the unpublished rulings of Custo
Headquarters which illustrated the type of ownership contemp
ed by T.D. 55027(2). Under these circumstances, the record show
misinterpretation of the requirements of T.D. 55027(2) rather t
an intention to defraud the revenue.

The record does not support a finding by the appropriate C
toms officer under 19 U.S.C. 1521 that a false document, know
be false by A and/or B, was relied upon by Customs officials to
detriment of the revenue.

Holdings: 1. You are directed to deny Protest Numbered 1801
00035.

2. You are directed to allow Protest Numbered 1801-0-00036.

A copy of this decision should be furnished to the protestant.

(C.S.D. 83-73)

This ruling holds that tape recordings produced in a foreign-trade-zone by the use of imported master tapes may be sent into Customs territory free of quotas, duty and taxes, assuming that there is compliance with all zone requirements applicable thereto. (19 U.S.C. 81c; 19 CFR 146.22; 19 CFR 146.44)

Date: March 14, 1983
File: FOR-2-CO:R:CD:D
215445 RB

Issue: Whether tape recordings produced in a foreign-trade zone may be sent into Customs territory free of duty when the recordings are produced therein by the use of imported master tapes but are made entirely from film stock admitted to the zone in privileged domestic status.

Facts: A company purchases in a foreign-trade zone tape recordings which are made entirely from blank tapes admitted to the zone in privileged domestic status. The recordings are produced by the use of imported master tapes.

Law and Analysis: The dispositive point in this case is that the tape recordings are made in a foreign-trade zone entirely from materials admitted to the zone in privileged domestic status. This being the case, the tape recordings may be sent to Customs territory free of quotas, duty and taxes, assuming of course that there is compliance with all zone requirements applicable thereto (19 U.S.C. 81c; 19 CFR 146.22; 19 CFR 146.44).

Holding: The tape recordings may be sent into Customs territory free of quotas, duty and taxes, assuming of course that there is compliance with all zone requirements applicable thereto.

(C.S.D. 83-74)

This ruling holds that the forged C-Clamp in the instant case must be permanently marked with the country of origin to meet the requirements of 19 U.S.C. 1304

Date: March 17, 1983
File: MAR-2-05 CO:R:E:E
721458 FBO

This ruling concerns the country of origin marking requirements for a forged C-Clamp.

Issue: Whether a forged C-Clamp must be permanently marked with the country of origin?

Facts: A forged C-Clamp was purchased, by a domestic manufacturer of the same, from (company name and address). (Co.) is an importer and distributor of hand tools. The domestic manufacturer asked an official of (Co.) where the C-Clamp was made, which response was Taiwan. There is no country of origin marking on the forged C-Clamp.

Law and analysis: Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), provides generally that all articles of foreign origin imported into the United States must be legibly and conspicuously marked to indicate the English name of the country of origin to an ultimate purchaser in the United States. The forged C-Clamp must be individually marked with the country of origin in a permanent manner which it is not. This violates 19 U.S.C. 1304 and must be rectified immediately. The clamp is quite capable of being marked and has markings in raised letters with plenty of space for the country of origin to be placed. There is no way the ultimate purchaser could be aware of the origin of the clamp.

Holding: The forged C-Clamp described above must be permanently marked to meet the requirements of 19 U.S.C. 1304. The preferable method of marking is die sinking, etching or raised letters.

(C.S.D. 83-75)

This ruling holds that the torque wrench in the instant case must be individually marked to meet the country of origin marking requirements of 19 U.S.C. 1304

Date: March 17, 1983
File: MAR-2-05 CO:R:E:E
721459 FBO

This ruling concerns the country of origin marking requirements for a Torque Wrench.

Issue: Whether a torque wrench must be individually marked with the country of origin.

Facts: A torque wrench was purchased at a (store name) retail outlet in Los Angeles. It is known from the configuration of this tool that it is an import and, more specifically, is a manufacture of Taiwan. At the store where the tool was purchased, the wrench was hanging in a locked showcase with no box or other packaging, with just an instruction sheet scotch-taped to the shank. At the time of purchase, the assistant store manager was asked for the box in which the wrench came. The assistant store manager advised that (store name) destroys such boxes. The subject torque wrench contains *no country of origin marking.* Furthermore, the taped instruction sheet indicates that the wrench is "guaranteed to meet or exceed (certain) Federal Specifications," thereby possibly suggesting to ultimate purchasers that the wrench is a domestically made product.

Law and anaylsis: Unless excepted by law, section 304, Tariff Act of 1930, as amended 19 U.S.C. 1304), requires that every article of foreign origin (or its container) be legibly and conspicuously marked to indicate the country of origin to the ultimate purchaser in the United States.

In this case, the torque wrench, hanging in a store, unmarked is clearly in violation of 19 U.S.C. 1304. The discarding of the boxes shows an intent to deceive the consumer, the ultimate purchaser, as to the origin of the product.

Holding: The torque wrench herein must be individually marked to meet the country of origin requirements of 19 U.S.C. 1304. The preferable method is die sinking, etching or raised letters.

(C.S.D. 83-76)

This ruling holds that unmarked crimp tools must be individually marked in a manner that is legible and in close proximity to the U.S. address on the blister package in order to satisfy the country of origin marking requirements of 19 U.S.C. 1304 and 19 CFR 134.46

Date: March 17, 1983
File: MAR 2-05 CO:R:E:E
721460 FBO

This ruling concerns the country of origin marking requirements for an electrical & general purpose crimp tool.

Issue: How must the crimp be marked?

Facts: The unmarked crimp tool is packaged in a blister-pack. The tool is known to be imported, based on its appearance (particularly, the way in which the lettering was placed, *i.e.*, painted, on the tool) and the extremely low retail price shown ($4.50). The only geographical location indicated is at the bottom of the package, where the following words appear: (U.S. address and phone number). Thus, not only is the country of origin of the imported tool missing, but the packaging clearly has the capability of actively misleading consumers into believing that the tool is produced by (company name) (the company name appearing at the top of the packaging) in U.S. city, state). Indeed, this is the very confusion which Customs Regulation, section 134.46 (19 CFR 134.46) was specifically designed to prevent.

Law and analysis: Section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), provides generally that all articles of foreign origin or its container imported into the United States must be legibly and conspicuously marked to indicate the English name of the country of origin to an ultimate purchaser in the United States.

Title 19, CFR, section 134.46 provides: In any case in which the words "United States," or "American," the letters "U.S.A." any variation of such words or letters, or the name of any city or locality in the United States, or the name of any foreign country or locality other than the country or locality in which the article was manufactured or produced, appear on an imported article or its container, there shall appear, legibly and permanently, in close proximity to such words, letters or name, and in at least a comparable size, the name of the country of origin preceded by "made in," "Product of," of other words of similar meaning.

The unmarked crimp tool must be individually marked with the country of origin in close proximity to the U.S. address on the package.

Holding: To satisfy 19 U.S.C. 1304 and 19 CFR 134.46, the crimp tool must be individually marked in a manner that is legible and in close proximity to the U.S. address on the blister package. It is preferable that these times be die sunk, etched or be molded.

(C.S.D. 83-77)

This ruling holds that the crimping tool herein must be marked individually by die-sinking, disassembling, molding or etching to satisfy the requirements of 19 U.S.C. 1304 and 19 CFR 134.41(a) and 19 CFR 134.43(a)

Date: March 17, 1983
File: MAR-2-05 CO:R:E:E
721461 FBO

This ruling concerns a deceptively marked crimping tool.

Issue: Whether the (trade name) "Crimping Tool" should be permanently marked with the country of origin.

Facts: The crimping tool in question is individually marked, however, when it is blister packed the marking, by label, is face down and cannot be seen. The information at the bottom of the package reads: (company name and address).

On the side of the crimping tool facing down is an adhesive label that states "MADE IN TAIWAN". Not only is this label contrary to the general rule announced in section 134.41(a) of the regulations (19 CFR section 134.41(a)) and contrary to the specific rule stated in section 134.43(a) (19 CFR section 134.43(a)), but the placing of the "marked" side of the tool face down in a sealed package evidences an unlawful intent to conceal the identity of the country of origin, as Customs found in Ruling No. 719878 of August 4, 1982.

Law and analysis: Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304) provides generally that all articles of foreign origin or their containers imported into United States must be legibly and conspicuously marked to indicate the English name of the country of origin to an ultimate purchaser in the U.S.

19 CFR section 134.41(a) provides: As a general rule, marking requirements are best met by marking worked into the article at the time of manufacture. For example, it is suggested that the country of origin on metal articles be die sunk, molded in or etched.

19 CFR section 134.43(a) provides: Marking required by certain provisions of the Tariff Act of 1930. Articles such as knives, clip-

pers, shears, safety razors, surgical instruments, scientific and laboratory instruments, pliers, pincers, vacuum containers, and parts thereof shall be marked legibly and conspicuously by die stamping, cast-in-the-mold lettering, etching (acid or electrolytic), engraving, or by means of metal plates which bear the prescribed marking and which are securely attached to the article in a conspicuous place by welding, screws, or rivets.

In this case, we believe that the crimping tools should be marked in the manner described in 19 CFR 134.41(a) because it is evident that the labels used are not secure. Also, similar instruments to that considered herein are required by 19 CFR 134.43(a) to be so marked and these serve a similar function as pliers and pincers.

Holding: The crimping tool herein must be marked individually by die-sinking, disassembling, molding or etching to satisfy the requirements of 19 U.S.C. 1304 and 19 CFR 134.41(a) and 19 CFR 134.43(a).

(C.S.D. 83-78)

This ruling holds that the present marking means of small print on the reverse side of blister-pack packages indicating the country of manufacture of certain adjustable wrenches does not constitute compliance with the country of origin making requirements of 19 U.S.C. 1304.

Date: March 17, 1983
File: MAR-2-05 CO:R:E:E
721463 FBO

This ruling concerns the country of origin marking requirements for an eight inch adjustable wrench.

Issue: Whether certain blister packed wrenches meet the country of origin marking requirements of 19 U.S.C. 1304.

Facts: It has been brougth to the attention of Customs that (company) is importing certain adjustable wrenches that are questionably marked with the country of origin. The wrench has raised lettering that is face down in a blisher pack and has a marking of Japan on the rear of a cardboard backing in very small and inconspicuous lettering.

Law and analysis: Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), provides generally that all articles of foreign origin imported into the United States must be legibly and conspicuously marked to indicate the English name of the country of origin to an ultimate purchaser in the United States.

This is a blister-packed tool, with the side facing downward bearing the notation of the country of origin (in this case, Japan). This concealment is not undone (and the objective of providing notice to ultimate purchasers is not served) by the printing of the words "MANUFACTURED IN JAPAN," in small type, on the reverse side of the package. That reverse side contains the following statements in very large print, spread over most that side: THIS PROFESSIONAL QUALITY TOOL IS MADE OF THE HIGHEST GRADE MATERIAL BY EXPERT CRAFTSMEN" AND "CONSTRUCTION IS OF HIGH GRADE CHROME VANADIUM STEEL ALLOY FULLY HARDENED AND TEMPERED." At the very bottom of the page appears the following, with the expression (company) in bold distinct print and with all other words in very small letters: "Manufactured in Japan for (company name and address

Certainly, that indistinct, inconspicuously placed notation of origin on the packaging does not constitute compliance with the country of origin marking law. The marking must be clear and conspicuous.

Holding: In order to meet the country of origin marking requirements of 19 U.S.C. 1304, the wrenches must be reversed so the marking can be seen through the plastic clear portion.

(C.S.D. 83-79)

This ruling holds that the present marking by means of small print on the reverse side of blister-pack packages indicating the country of manufacture of certain hand tools is not conspicuous enough to satisfy the country of origin marking requirements of 19 U.S.C. 1304

Date: March 17, 1983
File: MAR-2-05 CO:R:E:E
721464 FBO

This ruling concerns the country of origin marking requirements for a "¼ inch Drive Ratchet Handle and ¼ inch Drive Extension Bar."

Issue: Must the Drive Ratchet Handle and Drive Extension Bar be marked with the country of origin.

Facts: The imported Drive Ratchet Handle and Drive Extension Bars are not individually marked with the country of origin. There is small print on the reverse side of a blister-pack indicating that Taiwan is the country of manufacture appearing in juxtaposition with the bold face and larger (name) and does not appear sufficient to make an ultimate purchaser aware of the origin.

Law and analysis: Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304) provides generally that all articles of foreign origin or its container imported into the United States must be legibly and conspicuously marked to indicate the English name of the country of origin to an ultimate purchaser in the United States.

The clarity of the marking on the reverse of the packages if it were bolder would be acceptable for purpose of 19 U.S.C. 1304, but presently is not conspicuous enough to satisfy the statute.

Holding: The present marking on the back of the blister pack is not acceptable for purposes of 19 U.S.C. 1304.

(C.S.D. 83-80)

This ruling holds that the assembly of artificial floweres into floral sprays, designs, or bouquets in a Customs banded warehouse is a manufacture prohibited by 19 U.S.C. 1562

File: WAR-1-CO:R:CD:D
215045 L

Issue: Is the assembly of artificial flowers into floral sprays, designs, or bouquets a permissible manipulation in a private Customs bonded warehouse?

Facts: Artificial flowers are imported and entered for warehouse. In the warehouse, the flowers are made into floral sprays, designs, or bouquets. Individual or multiple flowers of the same or of various types may be used and there may or may not be floral arrangement together, and cutting of the stems.

Law and analysis: Merchandise in a bonded warehouse may be cleaned, sorted, repacked, or otherwise changed in condition, but not manufactured, pursuant to 19 U.S.C. 1562. The inquirer contends that the artificial flowers are merely assembled or repackaged in a manner more attractive for ultimate distribution and indicates there is no change in the product as imported other than an occasional shortening of a stem.

The Supreme Court defined the word "manufacture" for Customs purposes in *Anheuser-Busch Brewing Association* v. *United States*, 207 U.S. 556 (1907), as follows:

> Manufacture implies a change, but every change is not a manufacture, and yet every change in an article is the result of treatment, labor and manipulation. But something more is necessary as set forth and illustrated *Hartranft* v. *Wiegmann*, 121 U.S. 609 (1837). There must be a transformation; a new and different article must emerge, "having a different name, character, or use."

The Customs Service and Courts have adhered consistently to this definition of manufacture. Congress never has modified by statute either the definition or the Customs Service interpretation of it.

It is clear that the assembly of the artificial flowers into sprays, designs, or bouquets results in a new and different article possessing each of the exemplars cited: a different name, a different character, and a different use.

Holding: The assembly of artificial flowers into floral sprays, designs, or bouquets in a Customs bonded warehouse is a manufacture prohibited by 19 U.S.C. 1562.

(C.S.D. 83-81)

This ruling holds that where importer-parent declares that it sets the prices, transaction value requires a determination that the relationship between the buyer and seller (seller being a subsidiary of the buyer) has not influenced the price paid or payable or that a test value has been met. (19 CFR 152.103(1) (1)

Date: March 25, 1983
File: CLA-2 CO:R:CV:V
542792 LPD
TAA #61

Re: Application for Further Review of Protest No. 1001-1-013585, dated November 17, 1981

This is in regard to the above-captioned protest concerning the dutiable value of Avenge Technical Herbicide Powder imported from the Netherlands. The merchandise was entered on May 13, 1981, and was appraised under transaction value on the basis of the transfer price between the buyer and seller. The entries were liquidated on October 9, 1981. (company name) (Protestant) filed this protest on November 17, 1981, contending that the merchandise should be appraised on the basis of its computed value.

The merchandise is a wild oat herbicide which is produced by (company name) (Manufacturer) (company name) Manufacturer, the only producer of the merchandise in the (country) is a subsidiary of Protestant. The merchandise is sold to Protestant through another of its subsidiaries, (company name) (Seller) (company name) Although sales to Protestant are made through the (country) subsidiary, the merchandise is shipped from the (country) to the United States directly. The selling price of the merchandise is established unilaterally, without negotiation, by Protestant and may be increased or decreased by Protestant at any time upon its own initiative. We are advised that while this is not typical of the manner in which Protestant does business in general, it is the manner in which this merchandise is priced.

Because the parties are related and Protestant alone sets the sale price of the merchandise, it argues that the relationship between the parties influences the price actually paid or payable and that the transaction value of the merchandise may not be used as the basis of appraisement. Accordingly, it requests appraisement on the basis of computed value.

The question presented is whether the transactions between Protestant and Seller may be accepted as representing transaction value in view of the relationship of the parties.

Section 402(b)(2)(B), Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (TAA), provides that the transaction value of merchandise may serve as the basis of appraisement in related party transactions if either: (1) an examination of the circumstances of the sale indicates that the relationship between the buyer and seller did not influence the price actually paid or payable; or, (2) the transaction value of the merchandise closely approximates—

a. The transaction value of identical merchandise or of similar merchandise in sales to unrelated buyers in the United States; or,

b. The deductive or computed value for identical merchandise or similar merchandise.

exported to the United States at or about the same time as the imported merchandise.

In determining whether the relationship between the parties influenced the price of the merchandise, the Statement of Administrative Action relating to Customs valuation, submitted to and approved by Congress along with the TAA, and section 152.103(l)(1), Customs Regulations (19 CFR 152.103(l)(1)), provides that if it is shown that the buyer and seller, although related, bought from and sold to each other as if they were not related, this would demonstrate that the price had not been influenced by the relationship and transaction value would be accepted. For example, if the price had been settled in a manner consistent with the normal pricing practices of the industry, or with the way the seller normally deals with buyers who are not related to him, it would be considered not to have been influenced by the relationship.

In addition, the above-cited authorities also provide that where the price is adequate to ensure recovery of all costs plus a profit equivalent to the firms's profit realized over a representative period of time (*e.g.* on an annual basis), in sales of merchandise of the same class or kind, this would demonstrate that the price had not been influenced by the relationship.

Because there are no other producers of identical or similar merchandise in the country of production and there are no sales of identical or similar merchandise by the producer to unrelated purchasers in the United States, we cannot determine whether the price of the merchandise was established in a manner consistent with the normal pricing practices of the industry or in the way in which the seller settles prices for sales to buyers who are not related.

Further, we cannot determine whether the sale price of the merchandise is adequate to ensure recovery of all costs plus a profit which is equivalent to the firm's overall profit realized over a representative period of time in sales of merchandise of the same class or kind. In making this determination in the context of a parent subsidiary relationship, where the subsidiary is the seller, the reference to the firm's overall profit does not mean the overall profit of the subsidiary. In this case, because the technical grade herbicide imported by Protestant is manufactured into an industrial strength herbicide for resale, the parent is not selling merchandise of the same class or kind. Accordingly, there is no basis for determining whether the sale price satisfies this test.

In addition, because there are no sales of identical or similar merchandise to unrelated purchasers in the United States, there is no test value which may serve as a basis of comparison in determining whether the transaction value of the merchandise closely approximates the transaction value of identical or similar merchandise in sales to unrelated buyers in the United States. There is no deductive value which can serve as a test value because no identical or similar merchandise is resold in the United States to unrelated parties after importation. Finally, as to the merchandise covered by this protest, a computed value which can be used as a test value has not previously been established.

Accordingly, there is no basis on which we can determine that the relationship has not influenced the price, or that the price satisfies a test value. Under these circumstances, and where it appears that the parent does, in fact, set the prices, we must reject transaction value.

For the foregoing reasons, you are directed to allow the protest. A copy of this decision should be attached to the Form 19 Notice of Action.

(C.S.D. 83-82)

This ruling holds that cartridge developers also known as electrostatic developers are properly classified under the provision for colors and dyes in item 410.22, TSUS, since these developers, whether in liquid or dry form are not within the TSUS provisions for inks

Date: March 28, 1983
File: CLA-2 CO:R:CV:G
072162 JCH

To: Area Director of Customs, New York, New York 10048.
From: Director, Classification and Value Division.
Subject: Request for Internal Advice No. 159/82 Concerning the Tariff Classification of a Cartridge Developer (Your Memorandum of September 28, 1982, CLA-2-06-S:C:DI:11/353 XCLA2-04).

The subject Internal Advice Request was initiated by the importer in a letter dated June 9, 1982. The merchandise was imported from Japan. Our decision follows:

Issue: The entered classification of the merchandise has not been provided. You state, however, that your port and others have been classifying similar merchandise for copiers classifiable as office machines under the provision for parts of office machines in item 676.52, Tariff Schedules of the United States (TSUS), thereby implying that the instant merchandise may be classifiable under the parts provision for the provision under which the machine in which the instant merchandise is used would be classified.

However, you state that it is your view that the merchandise is properly classifiable under the provision for benzenoid colors, dyes, and stains, not containing ingredients listed in the chemical appendix to the TSUS, in item 410.22, TSUS, for which the column 1 rate of duty is currently 16 percent ad valorem.

Various claims with respect to other alternative classifications of toners and developers for copiers have been raised in connection with other past and pending matters. With the exception of the possible alternative classification of the instant merchandise under the provision for inks in item 474.26, TSUS, our response to those claims will be included in our replies to the parties raising those claims, and those issues will not be discussed in this memorandum. The colum 1 rate of duty for inks classifiable under item 474.26 is 1.9 percent ad valorem.

Facts: The merchandise consists of a rectangular plastic bottle, referred to as a cartridge, containing a liquid developer for use in a facsimile transceiver. A Customs laboratory report dated September 20, 1982, shows the sample contains a non-benzenoid organic solvent, small amounts of carbon black, a benzenoid dye, and a non-benzenoid synthetic plastics material. The report does not identify any component in the product as a benzenoid material listed in the chemical appendix to the TSUS.

In use, the cap is screwed off the bottle and replaced with a cap containing a spring valve which automatically opens when the bottle is placed upside down in the receptable for it in the facsimile transceiver. Air pressure, of course, keeps the bottle from emptying entirely, and the liquid is gradually fed to the machine as needed. The developer is also used in conjunction with a liquid toner from another bottle which is fed to the machine in a similar manner. When the bottle is empty, the machine can continue to run until the empty bottle is discarded and replaced with a full bottle, or the internal reserve of developer is exhausted.

Law and analysis: If classifications of similar merchandise have been made under item 676.52, they were predicated on *Bruce Duncan Co. v. United States,* 63 Cust. Ct. 412, C.D. 3927 (1969), in which it was held that a disposable cartridge containing butane for a cigarette lighter was classifiable as a part and was not a container subject to the rules applicable to containers in General Headnote 6, TSUS. We took the same view with respect to a similar butane cartridge in our decision of February 3, 1977, file No. 047532. See also *Riekes Crisa Corp. v. United States,* 84 Cust. Ct. 132, C.D. 4852 (1980), for illustrations and discussion of other situations where General Headnote 6 may not be applicable.

However, none of the foregoing precedents is authority for the view that fuels or other liquid consumable materials may generally be regarded as parts of the machines that use them just because they may be fed to the machine directly from the bottle they come in without the necessity of using an intermediate reservoir. In the *Bruce Duncan* decision, *supra*, the court treated the butane cartridges as though they were empty, and did not review the appropriateness of the possibility of a constructive segregation of the butane, an issue raised by neither party.

Aside from the fact that a constructive segregation of the instant bottle and its contents would be a strained interpretation, and even if the same could be said for constructive segregation of cigarette lighter cartridges and the butane they contain, developer bottles and cigarette lighter cartridges are distinguishable for other reasons. While you have noted among them that a copier can operate for a short time without a bottle of developer in place, while a cigarette lighter cannot operate at all without its butane cartridge, a butane cartridge represents a significant portion, if not the major portion, of the value of the cigarette lighter. A developer bottle, however, represents a minuscule, if not infinitesimal, portion of the value of the facsimile transceiver. Further, the bottle represents a small portion of the value of the developer it contains, while the value of the butane in a cigarette lighter cartridge in relation to the value of the cartridge is so insignificant that the court in *Bruce Duncan* did not consider it at all. Accordingly, we find that none of the abundant authorities pertinent to the definition of parts would warrant holding that the bottle in question is a part of a facsimile transceiver. Therefore, we find that the bottle in question is nothing more than the usual type of container within the contemplation General Headnote 6(b)(i), and classifiable as an entirety with the developer it contains with the same rate of duty for the developer.

Having determined that the bottle is not determinative of the classification of its contents, the contents would appear to be classifiable in Schedule 4, Part 1, in accordance with various Headquarters precedents. However, materials for electrostatic copiers were originally classified under the applicable provision for benzenoid mixtures, not specially provided for (n.s.p.f.). This position was abandoned in our decision of March 9, 1977, in IA 128/66, file No. 048213, *aff'd* on reconsideration September 27, 1977, file No. 052550, when we held a dry toner was classifiable as a color or dye. In reaching this conclusion we noted that the provisions for mixtures, n.s.p.f., in Subpart C, Part 1, Schedule 4, were less specific than the provisions for colors, dyes and stains.

This position was reinforced by the view that the provisions for colors, dyes or stains are use provisions, and therefore more specific than certain other provisions in the same subpart, as noted in *United States v. Mobay Chemical Corporation*, 65 CCPA 53, C.A.D. 1206 (1978). The court, at 58, also stated, "Nothing of record indicates that the 'color' provisions do not cover coloring pigments admixed with other ingredients * * *." Accordingly, we later rejected e claim that dry electrostatic copying materials were classifiable s plastics resins, and continued to classify them as colors, dyes or tains, in our decision of August 2, 1982, IA 51/82, file No. 069942.

The foregoing Headquarters decisions dealt with the dutiable tatus of dry or powdered toners and developers for electrostatic opying machines, and avoidance of classification as ink powders as based on the fact that these materials were never mixed with liquid solvent or vehicle. See our decision of May 19, 1981, IA 84/ 0, file No. 065177. This point was further discussed in IA 51/82, *upra*, in which we noted liquification of the plastics components of he powders in a thermal process could not be regarded as equivaent to liquification through the addition of a solvent or vehicle, nd, therefore, did not qualify the powders as ink powders.

This position was consistent with and an extension of the rationle of our decision of July 20, 1977, file No. 046492, in which we eld that dry colors to which a liquid would be added for use in a ravure printing process, where printed transfer papers were proluced that were used in placing designs on textiles in a heat transer process, were not within the provisions for ink powders since he liquified material was not an "ink" within the meaning of that eam as used in the TSUS. However, the court rejected this posiion in *Corporacion Sublistatica, S.A.*, Slip Op., 81-6 (Ct. Int'l rade, decided January 14, 1981).

The question is whether we are now to infer from the foregoing lecisions that if any of the dry toners and developers we previously lassified as colors or dyes were to be subsequently mixed with a iquid they would be regarded as ink powders and that the instant nerchandise, or any similar mixture, already in a liquid form in its ondition as imported, therefore, would be regarded as ink. In fact, ve even were urged to regard the dry toners or developers in their owdered form as inks in themselves and our position that an ink must contain a liquid as outdated. In support of this view, citations were made to Kirk-Othmer, *Encyclopedia of Chemical Technology* 2d ed. 1963-70), Vol. II, p. 631, and the *Printing Handbook* (2d ed. 967), p. 37, where it was indicated that dry toners and developers were also known as "electrostatic inks."

While these authorities do not purport to define liquid toners and developers, it would appear to be a *sine qua non* that if dry toners and developers were inks, the same must be true for liquid toners and developers. But these authorities cannot be used to place dry or liquid toners or developers into the provisions for inks if they merely express usages adopted after enactment of the TSUS, and the products to which they refer were not intended to be included within the meaning of the term "inks" as used in the TSUS at the time of its enactment.

It is well established, particularly with respect to provisions for which use is a factor, that "the meaning of words used in the tariff acts is fixed at the time of enactment and does not fluctuate as the

meaning of words might subsequently vary * * *." *United States*
Victoria Gin Co., 48 CCPA 33, 37, C.A.D. 759 (1960). See also *Sear*
Roebuck & Co. v. United States, 46 CCPA 79, C.A.D. 701 (1959
This, of course, does not mean that the TSUS provisions a
"frozen in time," and tariff provisions will be construed as encor
passing subsequently created products which are fairly within the
scope. *Novo Enzyme Corporation v. United States*, 82 Cust. Ct. 24
C.D. 4806 (1979). For discussions of the factors to be considered f
determining when the basic rule or its exceptions will be applie
see our decision of March 10, 1982, CSD 82-131, File No. 06844
and *Polaroid Corp. v. United States*, 66 Cust. Ct. 116, C.D. 41
(1971).

In order to exclude a product from a tariff provision as a subs
quently created product not contemplated within a tariff provisio
at the time of enactment, it is not necessary that the product
shown to have been actually invented after enactment of the tari
provision. It is sufficient that the article is shown to have repr
sented an insignificant item of international trade at the time
enactment. *Polaroid Corp. v. United States, supra.* While electr
static and similar copiers and, presumably, the developers ar
toners used in them, were invented approximately a quarter of
century before the present TSUS was enacted, their significar
commercial applications were not realized until many years late
and their significance as products of international trade was not r
alized until after enactment of the TSUS. The commercial develo
ment of these products was a companion to the development
data processing and related equipment which is clearly primarily
phenomenon of the post-1960 era. While the TSUS provisions f
automatic data processing equipment and office machines hav
proved flexible enough to encompass these subsequently develope
products, other TSUS provisions are more restrictive. For exampl
we have never enlarged the term "printing" as used in the TSU
in connection with printing machinery to include subsequently d
veloped printing mechanisms for computers or copying machine

We also believe it is entirely consistent with this approach not
extend the meaning of the term "ink" as used in the TSUS to a
commodate possible technical usages designed to keep pace wit
rapidly expanding technologies. While some of the materials use
in mechanisms operated by "print" controls, but not recognized
printing machinery, may nevertheless still be ink within traditio
al definitions, we find it is appropriate to regard the type of liqu
in question as a product so different in composition and characte
istics from inks as commonly conceived at the time of enactment
the TSUS, as not to be included within the TSUS provision f
inks.

Finally, it is our experience that products of the type in questio
are consistently and primarily referred to in the trade as tone
and developers and we are unaware of any commercial context

which they are referred to as ink. The authorities cited *supra,* however, would appear to indicate an exception to this in technical usages. However, we have examined leading non-technical dictionaries and can find nothing in the various definitions under which a liquid of the type in question and used in non-pressure types of printing could be regarded as ink. Accordingly, we find that if the cited technical treatises are authority for regarding the instant type of merchandise as ink, those authorities are inconsistent with the non-technical dictionaries. Where lexicographic authorities conflict, arbitrary adoption of one meaning by itself as the meaning included in the TSUS would not be a valid interpretation. *Victor Machinery Exchange, Inc. v. United States,* 67 Cust. Ct. 231, C.D. 4279 (1971).

Further, the cited technical authorities do not define "ink." They define "electrostatic ink." When the use of a common term in a scientific or technical application requires that the term be preceded by a qualifier, here the term "electrostatic," to distinguish the article from items only contemplated under the common meaning, the tariff term will be interpreted as only encompassing those articles within the term without the qualifer. *United States v. Sandoz Chemical Works, Inc.,* 46 CCPA 115, C.A.D. 711 (1959). Accordingly, for this additional reason it is correct to regard electrostatic or similar developers or toners, whether in liquid or dry form, as outside of the TSUS provisions for inks.

Holding: For the foregoing reasons, the merchandise in question is properly classifiable under the provision for colors and dyes in item 410.22, TSUS. A copy of this decision may be made available to the internal advice applicant.

(C.S.D. 83-83)

This ruling holds that a hoverbarge imported into the United States in disassembled sections does not meet the requirements of a vessel. Subassemblies or components may form a vessel when assembled, however they are not considered to be a vessel when imported into the United States because at the time of importation it is the condition of the structure that controls its classification and not what the structure is made into after importation. Sections of the hoverbarge are considered merchandise and are dutiable under the appropriate tariff schedules

Date: April 5, 1983
File: VES-12 CO:R:CD:C
105547 LLB

This ruling concerns the duty status of sections of a hoverbarge imported in a disassembled state over a period of five days.

Issue: Whether sections of a hoverbarge imported in a disassembled condition and arriving on ten separate flatbed trucks over a five-day period of time may be considered a vessel and thus not subject to the Tariff Schedules of the United States (TSUS).

Facts: A non-self-propelled barge of the hovercraft variety had been in use in the vicinity of Thunder Bay, Ontario, Canada, when arrangements were made to disassemble the 100 ton capacity craft, and ship it to Alaska for use in the Beaufort Sea. The character of its service is to transport freight between Prudhoe Bay, Alaska, and an ice island.

The hovercraft was cut into eleven sections including four longitudinal portions, among others, which had to be cut down even further for truck transport. The dismantled sections were then loaded on the trucks for the trip to Alaska. The disassembly and loading process took approximately two weeks, commencing on December 10, 1980 (petitioner's exhibit 3).

The plan had been for the ten trucks to travel in convoy and enter at the port of Alcan, Alaska, at the same time. During the trip, however, one of the trucks experienced mechanical difficulties and had to remain behind. It was decided that another truck should remain with the disabled vehicle for security reasons.

The first eight trucks arrived at Alcan on January 21, 1981, and the two remaining trucks reached Alcan on January 26, 1981.

It is stated that oral advice was given by the Anchorage District which, based upon the belief that the ten trucks would arrive together, indicated that the disassembled hoverbarge would be considered a vessel under General Headnote 5(e), TSUS, and would thus be exempt from tariff consideration. For this reason the first eight truckloads were released at Alcan without entry as an "essentially complete vessel." Consumption entries were required for the last two trucks.

Also appearing in the record is a hand-dated copy of a telex from the importer addressed to Customs Headquarters. The inquiry, dated January 6, 1981 (petitioner's exhibit 13), asks whether the shipment would be considered a "vessel" or whether it would be considered merchandise requiring formal entry. If considered to be merchandise, the specific tariff classification is requested. This telex was never answered since there is no record of it ever having been received at Headquarters.

Law and analysis: The importer advances following arguments:

> 1. The dissembled sections imported on the ten trucks over a five-day period consititutes a "vessel" exempt from entry under General Headnote 5(e), TSUS.
>
> 2. The disassembled sections were in fact a single shipment and constituted a single transaction under section 142.17 of the Customs Regulations (19 C.F.R. 142.17).
>
> 3. Even if it is decided that the two different truck arrivals were separate transactions, the eight truckloads that arrived

first constituted an "unfinished vessel" as contemplated by General Interpretive Rule 10(h), TSUS, and General Headnote 5(e), TSUS.

4. The importer acted only after consulting with and obtaining the opinion of Customs representatives in the Anchorage District, and thus acted with reasonable care in the processing of the shipment through Customs.

1. In support of the contention that the craft is a "vessel" as contemplated under General Headnote 5(e), TSUS, the petitioner cites the relevant statutory definition found in title 19, United States Code, section 1401.

It is stated that the "vessel" which was imported is not only capable of but is currently *used* to transport freight on water. Further, it is stated that the Customs Service has specifically determined that hovercraft are properly considered vessels.

2. In support of the second claim, the petitioner cites section 142.17 of the Customs Regulations which permits the district director the discretion to allow the filing of a single entry summary for merchandise the subject of separate entries if:

> 1. The merchandise has the same country of exportation, and the same country of origin.
> 2. The merchandise arrives by land, by the same vessel or by the same air carrier,
> 3. The merchandise is consigned to the same consignee,
> 4. The time between the date of the first entry and the date of the last entry does not exceed 1 week, ***

It is stated that all of these necessary elements have been satisfied.

3. In regard to the third claim, that being that at least the first eight truckloads should be considered one transaction, the petitioner turns to General Interpretive Rule 10(h), TSUS, for support. That rule states:

> Unless the context requires otherwise, a tariff description for an article covers such articles, whether assembled or not assembled, and finished or not finished.

It is stated that following the dictates of this Rule, the craft as it was constituted on January 21, 1981, the date the eight shipments arrived at Alcan, should properly be considered a "substantially complete" vessel. Various court and administrative cases are cited to support this contention including, *Daisy-Hedden, Div. Victor Comptometer Corp. v. United States,* 66 CCPA 97, 600 F. 2d 799, C.A.D. 1228 (1979), which found incomplete fishing reels to be "not finished" under the Rule; case No. 061409, dated August 29, 1979, an administrative ruling finding that disassembled bridge sections arriving in different shipments actually constituted a complete bridge under the Rule; and case No. 057763, dated August 24, 1979 (petitioner's copy dated August 27), an administrative ruling in which it was found that a foreign-manufactured "kit type barge" imported in a disassembled state and without rivets, bolts, nuts wires, etc., was an unfinished "vessel" invoking the provisions o General Interpretive Rule 10(h), and General Headnote 5(e), TSUS to permit duty-free entry.

4. To support the fourth and final contention, that the importe acted with reasonable care in processing the shipment, the petitioner cites discussions with and oral advice from Customs personnel i the Anchorage District prior to the arrival of the first shipment Further, a hand-dated telex is enclosed in the file in which Customs Headquarters is requested to provide guidance regarding the tariff status of the disassembled hovercraft. It is stated that this telex was never answered. Finally, it is stated that the importer reported the truck breakdown to Customs prior to the arrival of the first trucks at Alcan, and received advice that the first eight truckloads could still be entered as an incomplete vessel, duty-free.

Initially, pre-penalty notices were issued to the concerned parties in this matter, citing a violation of title 19, United States Code, section 1592 (commercial fraud). Substantial portions of the petition are devoted to addressing this issue. Subsequent to the petition being submitted to the District Director, Anchorage, it was determined that the penalty action would be withdrawn. Arguments relative to the then contemplated action under section 1592 are not therefore, addressed in this ruling letter.

Response to Petitioner's Contentions

1. The disassembled vessel sections imported by a number o trucks do not meet the definition of "vessel" in section 401(a) Tariff Act of 1930, as amended (19 U.S.C. 1401(a)). That definition includes "every description of water craft or other contrivance used, or capable of being used, as a means of transportation in water." Clearly when the trucks arrived in the United States, the disassembled sections were not then being used, or were not then capable of being used, as a means of transportation in water. The disassembled sections met the definition of "merchandise" in section 401(c), Tariff Act of 1930, as amended (19 U.S.C. 1401(c)).

It is a basic tenet of Customs classification procedure that condition at the time of importation is dispositive (*United States v. Citroen*, 223 U.S. 407, 32 S. Ct. 256, 56 L. Ed. 486 (1911)). In examining the condition of the disassembled sections at the time of importation, we find that they are not unlike other structures which have been the subject of judicial and administrative findings.

For example, we have applied the doctrine of condition at time o importation specifically to the issue of disassembled vessel sections in case No. 102304, dated December 6, 1976, wherein we found:

> In determining whether a particular article is a vessel at the time of importation it is the condition of the structure that controls its classification and not what it is made into after importation. The test is the actual status of the structure as

> being fairly suitable for commerce or navigation and as a means of transportation on water.

The case involved the importation of a dredge, to be brought into the United States in a disassembled state in the form of various subassemblies and assembled here. In this case we found:

> * * * no subassembly or component of the dredge in its condition when imported will have reached a stage of construction that makes it suitable as a means of transportation on water. Therefore, the subassemblies or components, although they may form a "vessel" when assembled, are not considered to be a "vessel" when imported into the United States and are subject to duty under the appropriate provisions of the Tariff Schedules.

The doctrine was discussed in an earlier court case as well. In *United States v. Bethlehem Steel Co., Maryland Shipbuilding & Drydock Co.,* C.A.D. 891, 53 C.C.P.A. 142 (1966), cert. denied, 386 U.S. 912 (1967), rehearing denied, 386 U.S. 987 (1967), the Court was considering the tariff status of a 525 foot vessel midbody which arrived from Europe under tow. The Court found the structure to be properly classified not as a vessel, but rather as an article in chief value of steel even though it was designed by naval architects, had a cargo capacity of up to 14,000 tons, had arrived with a temporary bow section affixed to it, was equipped with light, heat, power, radio facilities, food, navigation lights and signals, and carried a crew of eight.

2. Section 142.17, Customs Regulations (19 C.F.R. 142.17) relates to the filing of one entry summary for merchandise the subject of separate entries. It has no bearing on whether any contrivance brought into the United States is or is not a vessel as defined by statute.

3. For the reasons given above, the disassembled sections in the eight trucks that arrived first are considered "merchandise" and not a "vessel." Under General Headnote 5(e), TSUS, commercial vessels "are not *articles* subject to the provisions of these schedules." Therefore, General Interpretive Rule 10(h), TSUS, limited to the "tariff description for an *article*," is applicable to disassembled sections as merchandise or articles subject to TSUS but is not authority to conclude that such articles constitute a "vessel."

The authority relied upon by the petitioner to support its third contention is, with one exception, related to merchandise which is subject to various duty provisions of the Tariff Schedules. The exception to this is found in the previously cited administrative ruling 057763, dated August 24, 1979, concerning the importation of a barge in kit form, found to be a "vessel." That ruling is found to be in error and not in accordance with the current views of the Customs Service and is being revoked.

Revocation of a ruling letter is accomplished pursuant to section 177.9(d) of the Customs Regulations (19 C.F.R. 177.9(d)). If the parties in this case relied to any great extent upon the principles set forth in the 1979 letter, it is regrettable. However, the regulations do set forth the effect of ruling letters by stating in section 177.9(c) of the Customs Regulations (19 C.F.R. 177.9(c)), that:

> A ruling letter is subject to modification or revocation without notice to any person, except the person, to whom the letter was addressed. Accordingly, no other person should rely on the principles of that ruling letter or assume that the principles of that ruling will be applied in connection with any transaction other than the one described in the letter.

4. The petitioner's final point concerns precautions taken prior to the arrival of the hoverbarge in the United States, including consulting district Customs officials, keeping those officials apprised of changes in circumstances, and acting upon oral advice from the Anchorage District.

The Customs Regulations set forth clear means by which a binding ruling may be obtained from the Customs Service (Part 177 of the Customs Regulations, (19 C.F.R. 177)). In matters of an urgent nature, the regulations provide for expedited treatment upon submission of a written request for immediate consideration (section 177.2(d) of the Customs Regulations, 19 C.F.R. 177.2(d)). We note that the disassembly process began on the hoverbarge in Canada on December 10, 1980, and the first trucks did not arrive at Alcan until January 21, 1981, a span of some six weeks. Surely this would have been ample time to have obtained a binding ruling on the tariff status of the craft.

The fact that there is no record of a January 6, 1981, telex having been received at Customs Headquarters is inexplicable. The indications are, however, that even an adverse answer to the petitioner's inquiry would not have affected the decision to import the hoverbarge. The telex is dated January 6, 1981, well after the two week disassembly and loading process had been completed. Obviously the decision to bring the hoverbarge into Alaska had already been made at that point. Further, the wording of the telex itself indicates an awareness of potential dutiability. The two questions raised in the telex are:

> 1. Is entry required at all or is the hoverbarge (vessel) an intangible? and
> 2. If entry is required, classification to be used on entry?

In any case, it is clear that any oral presentations which may have been made by Customs personnel are not tantamount to a ruling. Section 177.1(b) of the Customs Regulations (19 C.F.R. 177.1(b)), provides:

> The Customs Service will not issue rulings in response to oral requests. Oral opinions or advice of Customs Service personnel are not binding on the Customs Service.

Holdings:

1. The disassembled sections herein involved do not constitute a "vessel" within the statutory definition.

2. As "merchandise", section 142.17, Customs Regulations, relating to the filing of one entry summary for multiple entries, can be applied to the disassembled sections.

3. General Interpretive Rule 10(h) applies to transactions involving any of the various provisions of the Tariff Schedules, but has no application to designations of vessel status.

4. Oral representations by Customs officials are of an advisory nature only and are not binding upon the Customs Service (section 177.1(b), Customs Regulations).

(C.S.D. 83-84)

This ruling holds that interest expense incurred by the foreign assembler as a result of a loan used to acquire the fixed assets of the assembly plant is considered to be part of the usual general expenses of the assembler for purposes of determining computed value

Date: April 12, 1983
File: CLA-2 CO:R:CV:V
543031 BLS

To: District Director of Customs, El Paso, Texas 79985.
From: Director, Classification and Value Division.
Subject: Internal Advice Request 11/83, Proration of Interest Expense.

This is in reference to your memorandum dated January 14, 1983, regarding the above-captioned matter. The issue is whether nterest expense incurred by the Mexican assembler as a result of a oan used to acquire the fixed assets of the assembly plant may be prorated in accordance with the percentage such assets are actualy utilized.

The basis of appraisement is computed value, apparently because he parties are related, and transaction value (as well as deductive alue) was determined to be inapplicable.

The importer advises that asset utilization in the production process ranges from 50 percent to 70 percent, and therefore argues hat the interest paid on the loan to acquire these assets should imilarly reflect the amount of such utilization for purposes of inlusion in the assembler's usual general expense.

You believe that the reduction of interest expense in this nanner is not consistent with Generally Accepted Accounting Principles (G.A.A.P.) nor with the statute. You note that the only uthority for reducing the interest expense incurred is if such genral expense is inconsistent with the general expenses usually relected in sales of merchandise of the same class or kind. However, ince in the instant case there is no other Mexican producer of merchandise of the same class or kind, the subject asembler's g eral expenses (and profit) are to be regarded as the usual, includi all of the interest expense incurred relating to the production fa ity.

Our New York office concurs, and is of the opinion that un G.A.A.P., there is no method under which interest expense may prorated based upon the utilization of assets.

In general, interest expense applies to the organization as whole and not to a specific product line. Any method of allocati these costs to individual lines necessitates establishing some re tionship of these general expenses to an individual product. (S "Generally Accepted Accounting Principles"—International Ap cations, Office of Commercial Operations (Trade Analysis Divisio U.S. Customs Service).

In this case, G.A.A.P. does not provide for a proration of inter expense merely because the asset acquired with the loan proce is utilized less than 100 percent in the production process. The terest expense is nevertheless considered to be an organizatio cost of doing business and a general expense. (There is no indi tion that Mexican G.A.A.P. would provide a different result.) Si the instant assembler is the sole producer in Mexico of the "sa class or kind of merchandise", its general expenses and profit considered to be the usual.

Under the circumstances, such interest expense is considered be part of the usual general expenses of the assembler for purpo of determining computed value.

(C.S.D. 83-85)

This ruling holds that merchandise admitted into a foreign-tr zone is imported for drawback purposes. Therefore, privile status must be requested for manufacturing drawback. U.S.C. 1313(a)(j))

Date: April 29, 198
File: CO:R:CD:
215686

Issues: 1. Whether foreign merchandise admitted into a forei trade zone is imported for drawback purposes under 19 U.S 1313(a) and (j)?

2. Whether the duty that is assessed on entry from a zone on article that was made in the zone with the use of non-privile foreign merchandise can be refunded as drawback under 19 U.S 1313(a) when that article is exported?

3. Whether the duty that is assessed on entry from a zone on article that was made in the zone with the use of non-privile foreign merchandise can be refunded as drawback under 19 U.S 1313(j) when that article is exported?

Facts: Flexible metal tubing was admitted into a foreign-trade zone as non-privileged foreign status merchandise. The tubing consisted of several layers of material and was admitted into the zone on large reels. In the zone the tubing was unwound from the reels and cut to various lengths. After cutting, the outer layers of the tubing were peeled away to expose the metal. Steel end fittings were welded to the tubing ends. After welding, the finished article was tested for water pressure resistance. After testing, the finished article was entered into the Customs territory of the United States. The finished article was appraised and classified in accordance with its character and condition at the time of entry. After entry the finished article was exported.

Drawback was claimed under 19 U.S.C. 1313(a).

Law and analysis: The relevant part of 19 U.S.C. 81c provides that when foreign merchandise is sent from a zone into the Customs territory of the United States it is subject to the laws affecting imported merchandise. The first proviso to 19 U.S.C. 81c provides an exception to that requirement. Under the proviso, if privileged status is requested and there has been no manipulation or manufacture effecting a change in tariff classification, the appropriate Customs officer is required to take that foreign merchandise under supervision, appraise it, and liquidate the duty due on it. At the time of liquidation the amount of duty due on it is not paid. The liquidated duty must be paid when that merchandise is sent into the Customs territory from the zone.

The Customs Service has held that foreign merchandise admitted into a zone is imported. C.S.D. 79-454, an a ruling dated August 12, 1981 (file 213254) which is to be published in the Customs Bulletin. See also Customs Service letter (file 213254) dated January 11, 1983, which reconsidered and affirmed the ruling dated August 12, 1981, and *Hearing on H.R. 6159 and H.R. 6160,* Committee on Ways and Means, 80th Cong. at 16 (1948).

The Customs Service has held that manufacturing in a foreign-trade zone is manufacturing in the United States for purposes of the manufacturing drawback law. C.S.D. 81-44. The relevant part of 19 U.S.C. 1313(a) provides that upon exportation of articles manufactured in the United States with the use of imported merchandise, 99 percent of the duties paid upon the merchandise so used shall be refunded as drawback. Section 146.48 of the Customs Regulations (19 CFR 146.48) implements 19 U.S.C. 81c with respect to the entry of articles derived entirely or in part from non-privileged foreign merchandise. Except for any privileged merchandise contained in the article, the section provides that the article is classified and appraised in accordance with its character and condition as entered from the zone. C.S.D. 82-29. Any privileged merchandise content is dutiable as liquidated when the privileged status was granted. C.S.D. 79-464.

The statutory language of 19 U.S.C. 1313(a) allows a refund of
percent of the duties paid upon the merchandise so used [to man
facture the export articles] rather than a refund of 99 percent
the duties paid upon the exported articles. The interaction of
U.S.C. 81c with 19 U.S.C. 1313(a) requires that the foreign me
chandise which is used to make the articles that are to be entere
from the zone and then are to be exported have privileged status
order to refund duty as drawback under 19 U.S.C. 1313(a).

The fact that duty on privileged foreign status merchandise use
in the manufacture of an article in a zone is not paid before th
manufacture occurs does not bar drawback. There is nothing in th
statute which requires that duties be paid before the imported me
chandise is used in manufacture. Section 22.20 of the Customs Re
ulations (19 CFR 22.20) permits payment of drawback before liqu
dation of the import entry. In the situation involving privileged fo
eign merchandise used to make an article in a zone, the duty o
the privileged foreign merchandise will have been liquidated, bu
not paid, before the manufacture occurs.

The final issue involves same condition drawback under
U.S.C. 1313(j). The relevant part of 19 U.S.C. 1313(j) provides that
imported merchandise on which was paid any duty is, before th
close of the three-year period beginning on the date of importatio
exported in the same condition as when imported, then upon suc
exportation 99 percent of such duty shall be refunded as drawbac
The merchandise that was imported consisted of tubing on reel
The merchandise on which duty was paid was a weldment that wa
made by cutting the bulk tubing to length and welding end fitting
to the cut lengths. That finished article was exported after havin
been entered from the zone. The finished article was not in th
same condition as when imported and duty was paid on the fi
ished article rather than on the imported tubing. Same conditio
drawback does not apply.

Holding: 1. Foreign merchandise admitted into a foreign-trad
zone is imported for drawback purposes.

2. Duty that is assessed on entry from a zone on an article tha
was made in the zone with the use of non-privileged foreign mer
chandise may not be refunded as drawback under 19 U.S.C. 1313(a
even if that article is exported.

3. The duty that is assessed on entry from a zone of an articl
that was made in the zone with the use of non-privileged foreig
merchandise may not be refunded as drawback under 19 U.S.C
1313(j) even if that article is exported.

(C.S.D. 83-86)

This ruling holds that the coastwise towing statute (46 U.S.C. 316(a)), does not apply to official towing in the Panama Canal by a towing vessel owned by an agency of the United States Government, i.e., the Panama Canal Commission

Date: May 2, 1983
File: VES-10-03-CO:R:CD:C
105947 PH

In your letter of December 16, 1982, you requested that we comment on a letter dated December 3, 1982, from Mr. Michael Rhode, Jr., Secretary of the Panama Canal Commission, stating that Commission's opinion as to the applicability of 46 U.S.C. 316(a) to Commission towing activities.

Mr. Rhode refers to our ruling VES-5/VES-10-03 CO:R:CD:C 105369 PH, November 30, 1981, in which we ruled that the use of a foreign-built tug to assist or tow United States-flag vessels through the Canal would not violate the coastwise laws then under consideration (46 U.S.C. 316(a), 883) *except* in the situation in which the assisted United States-flag vessel was towed from a United States port to the Canal and from the Canal to another United States port. Mr. Rhode points out that our ruling did not address the issue of whether 46 U.S.C. 316(a) applies to tugs owned and operated by an agency of the United States Government. Based upon the definition in 46 U.S.C. 316(b) of "person" for purposes of section 316(a) and the penalties provided by section 316(a), Mr. Rhode states it to be the view of the Commission that 46 U.S.C. 316(a) does not apply to tugs owned and operated by an agency of the United States Government in the situation in which our November 30, 1981, ruling held that a foreign-built tug would violate section 316(a) if used to tow a United States-flag vessel through the Canal.

Title 46 United States Code, section 316 (a) and (b), provides that:

> (a) It shall be unlawful for any vessel not wholly owned by a person who is a citizen of the United States within the meaning of the laws respecting the documentation of vessels and not having in force a certificate of registry, a certificate of enrollment, or a license, issued pursuant to this title, or a certificate of award of number issued pursuant to section 288 of this title, to tow any vessel other than a vessel of foreign registry, or a vessel in distress, from any port or place in the United States, its Territories or possessions, embraced within the coastwise laws of the United States, to any other port or place within the same, either directly or by way of a foreign port or place, or to do any part of such towing, or to tow any such vessel, from point to point within the harbors of such places. The owner and master of any vessel towing another vessel in violation of the provisions of this section shall each be liable to a fine of not less than $250 nor more than $1,000, which fines shall constitute liens upon the offending vessel enforceable through the

> district court of the United States for any district in which such vessel may be found, and clearance shall not be granted to such vessel until the fines have been paid. The towing vessel shall also be further liable to a penalty of $50 per ton on the measurement of every vessel towed in violation of this section, which sum may be recovered by way of libel or suit.
>
> (b) The term "person" as used in subsection (a) of this section, shall be held to include persons, firms, partnerships, associations, organizations, and corporations, doing business or existing under or by the authority of the laws of the United States, or of any State, Territory, district, or other subdivision thereof.

The definition of "person" in section 316(b), by itself, does not preclude the application of section 316(a) to a towing vessel owned by an agency of the United States Government because section 316(a) requires that the towing vessel be wholly owned by a person who is a citizen of the United States *and* have in force an appropriate document. With regard to the latter requirement, the Customs Service has long held that "a vessel which has a document which restricts it from engaging in the coastwise trade does not have a document in force to engage in coastwise towing within the meaning of section 316(a)." (Treasury Decision 54600(57).)

It is an "old and well-known rule that statutes which in general terms divest pre-existing rights or privileges will not be applied to the sovereign without express words to that effect." (*United States* v. *United Mine Workers of America*, 330 U.S. 258, 272 (1947).) (See also, this rule applied with regard to the meaning of "person" in *United States* v. *Cooper Corp.*, 316 U.S. 600, 614, (1941); Annotation at 56 L. Ed. 2d 895, 899, 900, 908.) This rule has been stated to be an aid in the construction of statutes when their purpose is in doubt, "but it does not require that the aim of a statute fairly to be inferred be disregarded because not explicitly stated." (*United States* v. *California*, 297 U.S. 175, 186 (1936).)

The Customs Service has used this rule of statutory construction in its administration of the coastwise laws. On the basis of two Opinions of the Attorney General of the United States (26 Op. Att'y Gen. 416, 426 (1907)), we have ruled that property of the United States Government is not "merchandise" for purposes of the coastwise laws and thus may be transported between coastwise points by a non-coastwise-qualified vessel. However, we have also taken the position that the coastwise transportation of merchandise by a non-coastwise-qualified vessel owned by an agency of the United States Government would violate the coastwise laws.

The basis for the first of these positions is found in the first of the two Opinions of the Attorney General referred to above (26 Op. Att'y Gen. 416). The penalty for violation of 46 U.S.C. 883, before its amendment by section 213 of the Customs Procedural Reform and Simplification Act of 1978 (92 Stat. 904), was forfeiture of the merchandise transported in violation of that statute. As the Attor-

General stated, "[i]f the merchandise subject to forfeiture al- dy belongs to the Government it is obvious that the proceeding ıld be altogether nugatory and futile." (26 Op. Att'y Gen. at .)

lthough the 1978 amendment to 46 U.S.C. 883 added the alter- e penalty of "a monetary amount up to the value [of the mer- ndise] * * * to be recovered from any consignor, seller, owner, orter, consignee, agent, or other person or persons so transport- or causing said merchandise to be transported" to that statute, continue to interpret the statute in the same manner with ard to the coastwise transportation of Government owned prop- . This is so because of the long-standing and well-established ure of our interpretation of 46 U.S.C. 883 in this regard before 1978 amendment and because we are aware of no legislative ory for that amendment commenting on the continuation of t practice. (See 1978 *United States Code Congressional and Ad- istrative News* 2211, 2245, 2246.) (See also, *Missouri Pacific lroad Co.* v. *Ault*, 256 U.S. 554, 563, 564 (1921), for support for proposition that in the absence of evidence in the purpose or er of a statute, the Government does not undertake to punish lf by the imposition upon itself of fines or penalties.)

he Customs Service does not construe the rule referred to above material quoted from *United States* v. *United Mine Workers of erica* and *United States* v. *California)* to exempt from applica- of the coastwise laws merchandise not owned by the Govern- t which is transported by non-coastwise-qualified vessels owned an agency of the United States Government. To do so would eat the clear purpose of that statute. The purpose of the coast- e laws, and particularly of 46 U.S.C. 883, is "to encourage the elopment of an American merchant marine * * *." (*American itime Ass'n* v. *Blumenthal*, 590 F. 2d 1156, 1159 (1978, D.C. Ct. pp.).) Permitting merchandise not owned by the Government to ransported coastwise in a non-coastwise-qualified vessel, wheth- r not it is owned by an agency of the United States Govern- t, would discourage the development of an American merchant ine. Because the merchandise transported in this situation ld not be Government property, imposition of a penalty under J.S.C. 883 would not be "nugatory and futile," in the words of Attorney General (see 26 Op. Att'y Gen. 416, 417, quoted ve).

he Customs Service has long held that 46 U.S.C. 316(a) must be strued consistently with 46 U.S.C. 883 (Treasury Decision 70- 19)). The purpose of section 316(a), as it was amended by the of June 11, 1940, 54 Stat. 304, is to protect United States ves- engaged in towing vessels in the coastwise trade. (See, H.R. ort No. 2040, 76th Congress, 3rd Session.) Revised Statute 4370 ived from section 21 of the Act of July 18, 1866, 14 Stat. 183, the Act of February 25, 1867, 14 Stat. 410), the coastwise towing statute before the 1940 amendment, prohibited the towing of vessels of the United States from one United States port to another by vessels not of the United States and provided a penalty against the towing vessel of 50 cents per ton of the vessel towed. The statute was explicitly stated not to apply in any case where the towing, in whole or in part, was upon foreign waters. Along with other changes, the 1940 amendment extended the coastwise towing provision to towing between United States ports, either directly or by way of a foreign port or place, or for any part of such towing, and increased the penalty to $250-$1,000 against the master of the towing vessel and $50 per ton of the towed vessel, also against the towing vessel.

The purpose of 46 U.S.C. 316(a), with regard to the question under consideration, is generally the same as that of 46 U.S.C. 883. However, the penalties provided in section 316(a) would be against the towing vessel and the master of the towing vessel, who would be acting in his capacity as an agent of the United States Government if the vessel were owned and operated by an agency of the United States Government. Under such circumstances, penalties would be, again in the words of the Attorney General, "nugatory and futile" (see 26 Op. Att'y Gen. 416, 417, discussed above) because the reality of the assessment of such penalties would be the payment of the penalties by the United States Government to the United States Government. Therefore, just as we do not apply section 883 to prohibit the coastwise transportation by a non-coastwise-qualified vessel of property of the United States Government, we would not apply section 316(a) to prohibit the coastwise towing of a United States-flag vessel by a non-coastwise-qualified vessel owned and operated by an agency of the United States Government. (See *Missouri Pacific Railroad Co.* v. *United States*, referred to above, for support for the proposition that in the absence of evidence in the purpose or letter of a statute, the Government does not undertake to punish itself by the imposition upon itself of fines or penalties.)

The Panama Canal Commission is an agency of the United States Government (22 U.S.C. 3611). Accordingly, we concur with Mr. Rhode that 46 U.S.C. 316(a) does not apply to tugs owned by the Panama Canal Commission which are operated in the Panama Canal in the governmental service of the Commission. Although this ruling does not conflict with our November 30, 1981, ruling (published as Customs Service Decision 82-74) to which Mr. Rhode refers because that ruling concerned foreign-built tugs used in the Panama Canal and did not consider or refer to the question of the applicability of 46 U.S.C. 316(a) to such tugs owned by an agency of the United States Government, we are publishing this ruling in the same manner as the November 30, 1981, ruling with the notation that this ruling concerns that ruling.

(C.S.D. 83-87)

This ruling holds that there is no restriction on the period of time a person may keep his foreign-flag yacht in the United States. Foreign-flag yachts not in possession of a cruising license are subject to the usual requirements of the navigation laws applicable to foreign vessels arriving at, departing from, or proceeding between ports of the United States (19 CFR 4.94(e)). A cruising license is valid for six months and may be renewed. A yacht remaining in the U.S. beyond the duration of a cruising license would be required to comply with the entry, clearance and permit to proceed requirements of the navigation laws

Date: June 15, 1983
File: VES-4-03/VES-4-02
VES-4-01-CO:R:CD:C
106102 HS

This is in response to your letter of March 18, 1983, forwarding a letter from (constituent) and your letter of April 7, 1983, transmitting a translation of the questions asked in the letter of (constituent).

(Constituent) asks whether the same Customs laws apply whether he sails or ships his yacht to the United States; whether the yacht is dutiable if it will be brought back to Germany after a trip in United States waters; and what period of time would his yacht be permitted to stay in the United States.

If the yacht enters the United States under its own power, the master of the vessel is responsible for reporting its arrival to a Customs officer within 24 hours after its arrival. The report should include the place of docking, the name of the boat, its master, its nationality and the time of arrival, and may be made by any means of communication, including radio. Customs officers at that time will consider the dutiable status of the boat. In addition if the boat has on board any article required by law to be entered, such article must be reported to a Customs officer within 24 hours after arrival. Except for a pilot, vessel agent, consular officer, or a Federal Customs, Coast Guard, Immigration or health officer, no person may board, or except for the purpose of reporting the boat's arrival, leave the boat prior to completion of Customs formalities without permission of the Customs officer in charge. Entry of the vessel will have to be made within 48 hours.

Yachts which arrive in the United States as cargo are not required to report arrival or make entry at their initial port of entry.

Yachts from the Federal Republic of Germany are eligible for cruising licenses. If a cruising license is obtained, a yacht that arrived under its own power may, after entering at its initial port of arrival, arrive at and depart from United States ports without entering, clearing or obtaining a permit to proceed to move between ports of the United States. A yacht which arrives as cargo, once placed in the waters, may also obtain a cruising license and its privileges. Report of arrival would be required at each United States port even for a vessel with a cruising license. If a cruising license is not obtained, the yacht would be required to comply with all appropriate navigation laws.

A cruising license should be obtained at either the district where the yacht enters the United States or, if the yacht was brought in as cargo, at the district where the vessel is launched.

As mentioned above, the dutiable status of a yacht or pleasure boat will be determined after its arrival in the United States. Pursuant to items 696.05 and 696.10, Tariff Schedules of the United States (TSUS), a yacht that is imported, i.e., on arrival is owned by a resident of the United States or is being brought in for sale or charter to a resident of the United States, is subject to duty. An imported yacht valued at not over $15,000 is dutiable at a rate of 1.8% and an imported yacht valued over $15,000 is dutiable at a rate of 3.3%.

Pursuant to item 812.30, TSUS, any person arriving in the United States who is not a returning resident thereof, but who has not come to the United States solely for pleasure cruising in the United States in the yacht and who will establish residence in the United States may make a claim for free entry under that item of a yacht imported in connection with his arrival and to be used in the United States only for the transportation of him, his family and guests, and such incidental carriage of articles as may be appropriate to his use of the vessel. However, pursuant to Headnote 1(b), Subpart A, Part 2, Schedule 8, TSUS, the imported yacht would be subject to forfeiture if sold, chartered or offered for sale or charter within one year of entry under item 812.30, TSUS, unless duty is paid beforehand.

Yachts or pleasure boats brought into the United States by nonresidents thereof for their own use in pleasure cruising are not considered imported merchandise and are not subject to the provisions of TSUS applicable to yachts and pleasure boats (see Headnote 1(i), Subpart D, Part 6, Schedule 6, TSUS). The non-resident bringing in the yacht or pleasure boat must have come to the United States solely for pleasure cruising and not to establish residence in the United States. If such a yacht or pleasure boat is sold or chartered, or offered for sale or charter, to a resident of the United States at any time after arrival in the United States, it is subject to duty under items 696.05 or 696.10, TSUS.

There is no restriction on the period of time (constituent) may keep his yacht in the United States. Unless a foreign-flag yacht is in possession of a cruising license, it is subject to the usual requirements of navigation laws applicable to foreign vessels arriving at, departing from, or proceeding between ports of the United States (section 4.94(e), Customs Regulations). A cruising license, however,

; valid for only six months and is renewable only in the discretion
f the district director. If (constituent) wishes to keep his yacht
ere beyond the duration of a cruising license, he may do so, but
he yacht would then be required to comply with the entry, clear-
nce and permit to proceed requirements of the navigation laws.

(C.S.D. 83-88)

'his ruling holds that the sewing operations combined with the
washing and drying process of men's knit cardigan sweaters,
performed in an insular possession, would constitute a substantial contribution to the manufacture of the finished product;
therefore, resulting in a product of that insular possession for
the purposes of General Headnote 3(a), TSUS

Date: June 16, 1983
File: CLA-2 CO:R:CV:Vs
071303 FF

This is in reply to your letter dated April 20, 1983, concerning
he applicability of General Headnote 3(a), Tariff Schedules of the
Inited States (TSUS), to men's knit cardigan sweaters which you
tate will be produced in Guam from components purchased else-
here. Samples representing both the merchandise to be imported
ito Guam and the merchandise to be exported to the United
tates from Guam were submitted with your letter.

You state that the merchandise to be imported into Guam (Ex-
ibit A) will consist of two separate sleeve panels, two front panels
ith borders and pockets attached, and a rear panel; the front
anels will already be attached to the rear panel along the shoul-
er seams. Based on a review of submitted Exhibit A, it appears
at the borders to which you refer consist of one piece of knit
bric sewn both to the front panels and to the top of the back
anel, thus constituting in effect two front plackets and a collar-
and of a completed garment. You indicate that the following oper-
tions will be performed on that merchandise in Guam in order to
esult in a completed sweater (Exhibit B) which will be imported
irectly into the United States:

1. The sleeves will be joined to the body of the sweater at the
rmholes.
2. The two side seams of each sweater will be sewn closed.
3. The sleeve seams will be sewn closed.
4. Buttonholes will be made in the left border or placket.
5. Buttons will be sewn to the right border or placket.
6. The sweater will be washed and dried to remove both natural
ls and oils added prior to spinning the yarn and to achieve the
esired fabric texture. You state that the washing and drying proc-
s is precisely controlled in terms of time and amounts of washing
emicals and softening agents used, that testing is required in

Guam to determine the best washing and drying procedure for the
particular yarn, and that the process is necessary to avoid the dis
agreeable odor of the oils and to cause the yarn to relax so that it
will afford proper protection against the cold.

7. The sweaters will be pressed to size.

8. The sweaters will be bagged, boxed and packed.

It is your position that the processing to be performed on the
merchandise imported into Guam will result in a substantial trans
formation so that the finished sweater may be considered to be a
manufacture of Guam entitled to duty-free treatment under Gener
al Headnote 3(a), TSUS. You cite several court decisions and prior
administrative rulings to support your position.

The administrative rulings cited in your letter involved some
what different factual situations and, therefore, do not necessarily
constitute precedents to support your position in the present case
Moreover, as concerns your basic argument that the processing
performed on the subject merchandise in Guam will result in a
substantial transformation into a new and different article, it i
noted that neither General Headnote 3(a), TSUS, nor section 7.8
Customs Regulations, as such, sets for the substantial transforma
tion as the basis for determining whether the processing of mer
chandise imported into an insular possession will result in a prod
uct of that insular possession within the meaning of the Headnote
Therefore, since the court decisions cited in your letter to suppor
your argument did not involve merchandise imported under Gener
al Headnote 3(a), TSUS, they are not controlling in the presen
case.

It has been, and remains, our position that in order for merchan
dise imported into an insular possession to be considered a produc
of the insular possession, it must have been subjected to a substan
tial manufacturing process in that insular possession. As concern
the merchandise involved in the present case, we are of the opinion
that the sewing operations, when combined with the washing an
drying process, would constitute a substantial contribution to th
manufacture of the finished product so as to result in a product o
Guam for the purposes of General headnote 3(a), TSUS.

Accordingly, the merchandise in question, as represented by Ex
hibit B, will be entitled to duty-free treatment, provided that ther
is compliance with the value and other requirements set forth i
General Headnote 3(a) and in section 7.8, Customs Regulations.

(C.S.D. 83-89)

This decision holds that in order to meet the requirements of 19 U.S.C. 1304, certain hand tools must be packaged in such a manner so that the country of origin marking appearing on each tool is face up and clearly visable

Date: March 17, 1983
File: MAR 2-05 CO:R:E:E
721573 FBO

This ruling concerns the country of origin marking requirements for a three-piece pliers set sold in the United States by (Company name).

Issue: Whether the marking described below is adequate to meet the requirements of 19 U.S.C. 1304.

Facts: A complaint has been received by Customs that a three-piece pliers set imported into the United States by (Co.) is improperly marked.

Specifically, the sample set before Customs contains three pliers packaged in a plastic envelope, the back or bottom portion of which is opaque and the top portion of which is clear. On the side of the pliers facing upward appears the markings (Product) with additional letters and numbers. On the reverse side of each tool facing down, appears the word "Japan."

Law and analysis: Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), provides generally that all articles of foreign origin imported into the United States must be legibly and conspicuously marked to indicate the English name of the country of origin to an ultimate purchaser in the United States.

The tools must be reversed so that "Japan" is face up and clearly visible to the Ultimate purchaser.

Holding: In order to satisfy the marking requirements of 19 U.S.C. 1304 the tools must be reversed so that the marking on the tool is legible.

(C.S.D. 83-90)

This ruling holds that cold-pressed orange peel oil used to correct the cardboard off flavor of a batch of concentrated orange juice for manufacturing (COJM) directly affects the flavor and odor of the concentrate, therefore this blending process falls within the manufacturing and production processes for drawback. (C.S.D. 81-81, 19 U.S.C. 1313(a) and (b))

Date: March 29, 1983
File: DRA-1-CO:R:CD:D
215734 K

Issue: Whether the blending (addition) of oils to a batch of designated concentrated orange juice for manufacturing (COJM) is a manufacture or production for drawback.

Facts: An orange juice processor blends cold-pressed orange peel oil with bulk COJM to make (correct) the "cardboard off flavor" of the concentrate. It is the sole process claimed to satisfy the manufacture or production requirement for drawback under 19 U.S.C. 1313(a) and (b).

Law and analysis: In the production of COJM (approximately 65° Brix), essential oils are removed from the juice of fresh oranges due to the evaporation process. On the other hand, in the production of reconstituted orange juice (single strength) or frozen concentrated orange juice with the use of COJM, the essential oils are added back to the juice when fresh orange juice is used as "cutback" in the production process. In the alternative, essential oils (aqueous essence, essence oil and/or cold-pressed peel oil) may be added back to the juice, and water is used as "cutback."

Essential oils may also be added back to a batch of COJM which is then sold in bulk to enable a processor such as a dairy to prepare a saleable reconstituted juice or frozen concentrated orange juice by merely adding water to the concentrate. For this reason, we stated under the caption "Alternatives" in C.S.D. 81-81, that "the addition by a blending process of essential oils and flavoring components to a concentrate that lacks them would be considered a manufacture or production for drawback." Further, the degree Brix of bulk COJM may be changed by the addition of essential oils and water.

Each process discussed above has been held to be a manufacture or production for drawback almost from the introduction of the product, COJM, by the citrus industry.

Cold-pressed orange peel oil provides the basic flavor for orange juice products. It is also used to mask (correct) the "cardboard off flavor" of a batch of COJM. The blending (addition) of cold-pressed orange peel oil to a batch of COJM to eliminate or correct the "cardboard off flavor" directly affects the flavor, odor, and quality of the concentrate and the blending process falls within the manufacturing or production processes described in C.S.D. 81-81.

Holding: The blending of cold-pressed orange peel oil with a batch of concentrated orange juice for manufacturing to mask the "cardboard off flavor" of the concentrate is a manufacture or production for drawback.

(C.S.D. 83-91)

This ruling holds that vessels operated under consortium arrangement qualify, with respect to each other as "owned or chartered by the owner of the importing vessel" as set forth in section 4.34, Customs Regulations

Date: April 1, 1983
File: VES 5-19 CO:R:CD:C
105966 DHR

This is with reference to your letter of January 6, 1983, concerning a container from France which was destined for New York but was overcarried and discharged instead at Charleston, South Carolina.

The container was manifested for discharge from the (ship number #1) at New York on November 2, 1982, but was discharged at Charleston on November 4, 1982. It was decided to load the container onto the (ship number #2) for transportation back to New York in accordance with the procedures set forth in section 4.34(b) of the Customs Regulations. This section provides that overcarried cargo may be returned to the port of destination either "in the importing vessel, or in another vessel owned or chartered by the owner of the importing vessel" without being in violation of the coastwise laws (in the case of a non-qualified vessel).

The Customs officers in Charleston advised, however, that because the (ship line) is a consortium of vessel owners, (ship number #2) was not owned or chartered by the owner of the importing vessel, and the procedure prescribed in section 4.34(b) was not applicable.

Prior to the publication of T.D. 77-255 (October 25, 1977) the regulation under consideration provided that the overcarried merchandise could be carried back to its destination in a vessel *of the same line.* It was believed that the present wording inserted in lieu thereof would broaden the provision and increase the number of vessels available to transport the merchandise to the intended destination.

It is our understanding that (ship line) is composed of owners of vessels who charter their vessels to a company which manages the operation of the vessels. As the management company is owned by the owners of the vessels, each vessel owner may be said to be a charterer of the other owners' vessels (through the management company).

We are therefore of the opinion that vessels operated by (shipping line), are qualified to be employed in the procedure set forth in section 4.34, Customs Regulations, in forwarding or returning cargo when that cargo has been prematurely landed or overcarried by or inaccessibly stowed in another vessel of the (shipping line).

(C.S.D. 83-92)

This ruling holds that logger's measuring tapes must be marked on the box, tape and tape case to satisfy the country of origin marking requirements of 19 U.S.C 1304. Since the tape case and box are marked in English, French and German which would be misleading to the ultimate purchaser, marking only the item and container would not satisfy the requirements of 19 U.S.C. 1304

Date: May 4, 1983
File: MAR-2-05-CO:R:E:E
721900 FBO

This ruling concerns the country of origin marking requirements of imported logger's measuring tapes and boxes.

Issue: How should imported logger's measuring tapes and boxes be marked with the country of origin.

Facts: Tapes are being sold in the United States under the (Co.) label, apparently as an accessory to the (Co.) line of chain saws and chain saw equipment. The problem is that the tapes being imported into the United States do not indicate on the tape, the casing or on the tape measuring "blade" itself, where the product is manufactured or by whom. There is also no designation whatsoever on the box containing the tape to indicate that the tape is produced in England, nor is there reference on the inserted user instructions and spare parts description. In other words there is no way for the purchaser/user to tell that this tape is in fact manufactured in England and is not a U.S. product. To compound this problem at least one distributor of the product, (Company Name) in (Location) is urging its dealers to tell customers that all parts are "interchangeable" with the (Co.) tape, a U.S. domestic manufacturer. Some parts are interchangeable and since the (Co.) tape is the long (*i.e.* 22 years) standard in the U.S. forest products and logging industry, this is an attempt to deliberately confuse the dealer and the end user of the imported tape as to its relation to tapes being manufactured and distributed by (Company Name). With the exception of case color and label the tape is essentially a copy.

Law and analysis: Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), provides generally that all articles of foreign origin imported into the United States must be legibly and conspicuously marked to indicate the English name of the country of origin to an ultimate purchaser in the United States.

After inspecting a sample of the tape, Customs found the box unmarked, the case unmarked and the tape unmarked. The instructions for use are also unmarked. One clip-on device has the word "England" on it in very small letters. The tape case and box are marked in English, French and German giving the impression that the country of origin is other than England. The tape and box are not adequately marked and are in fact deceptively marked with an intent to deceive the ultimate purchaser. It is Customs determination that the box, tape case, and tape all must be marked with the country of origin.

Holding: To satisfy the country of origin marking requirements of 19 U.S.C. 1304, the (Co.) tapes must be marked on the box, tape, and tape case, instead of the usual situation where the item or its container being marked would suffice. The reason for this requirement in this case is that the box, by using German and French clearly suggests to the ultimate purchaser that the product is made in a place other than England and this is a deception.

(C.S.D. 83-93)

This ruling holds that the coastwise laws prohibits foreign flag vessels from transporting merchandise and passengers between Guam and other points in the United States. The coastwise laws do not prohibit foreign built United States flag vessels from transporting merchandise and passengers, including transportation between points within Guam. (46 U.S.C. 65k(b) and 46 U.S.C. 251(a))

Date: May 13, 1983
File: VES-3-CO:R:CD:C
106010 HS

This is in response to your letter of January 19, 1983, seeking clarification of federal law administered by Customs relating to the operation of vessels in Guam.

Title 46, United States Code, section 883, prohibits the transportation of merchandise for all or any part of the transportation between United States coastwise points by a non-coastwise-qualified vessel; that is, a foreign-flag vessel, a foreign-built vessel or a vessel which at one time has been under foreign flag or ownership. Title 46, United States Code, section 289, prohibits the transportation of passengers between coastwise points by a foreign vessel. These two laws are generally referred to as the coastwise laws.

Pursuant to 46 U.S.C. 877, the coastwise laws are applicable to Guam. Accordingly, foreign-flag vessels are prohibited from transporting merchandise and/or passengers between United States coastwise points, including transportation between Guam and other points in the United States and between points within Guam.

Section 65h(b) of title 46, United States Code (previously part of 46 U.S.C. 11, repealed by Pub. L. 96-594, December 24, 1980) provides, *inter alia,* that a vessel for which a registry is issued by the United States Coast Guard may be employed in trade with Guam. Customs, accordingly, has long held that foreign-built vessels admitted to registry may engage in trade between United States coastwise points and Guam. Passengers and merchandise may, therefore, be transported between United States coastwise points and Guam on a foreign-built United States-flag vessel.

With regard to foreign-built, United States-flag vessels transporting merchandise and/or passengers between points within Guam, the Commissioner of Customs informed the Commandant of the Coast Guard on August 14, 1970 (copy of letter of that date enclosed) that since such vessels were permitted to operate between the United States mainland and Guam, there was an equitable basis for holding that they should not be precluded from use in a shorter voyage between two points in Guam. Therefore, foreign-built United States-flag vessels may transport merchandise and/or passengers between points within Guam.

You specifically asked whether a foreign-built United States-flag vessel could be utilized in Guam's waters for the purpose of taking out fishing parties or carrying passengers on sight-seeing tours. Such use of such vessels is not prohibited. Of course, foreign-flag vessels are prohibited from engaging in such activity.

A foreign-built, United States-flag vessel may not fish in the territorial waters of Guam or the fishery conservation zone off Guam (46 U.S.C. 65k(b)), but a foreign-built, United States-flag vessel under five net tons owned by United States citizens or by resident aliens may engage in American fisheries (T.D. 56382(6)). It is correct, as you state, that Guam is exempt from the Nicholson Act (46 U.S.C. 251(a)). Accordingly, there is no law enforced by Customs prohibiting foreign-flag vessels or U.S.-documented foreign-built vessels from landing fish in Guam.

If you have any questions concerning a particular use of a specified vessel, we recommend that an inquiry be made to this office under Part 177, Customs Regulations (19 CFR 177).

(C.S.D. 83-94)

This ruling holds that an artificial island being built on the Outer Continental Shelf with gravel carried by foreign-built barges becomes a point in the United States for purposes of the coastwise laws. Therefore, the use of such foreign-built barges under consideration would be prohibited when any part of the incipient island is above the level of mean high water because such transportation would be coastwise trade in violation of 46 U.S.C. 883

Date: May 13, 1983
File: VES-3-15-CO:R:CD:C
106086 PH

This ruling concerns the applicability of the coastwise laws to the transportation of gravel by foreign-built barges from a point in the United States to a location on the Outer Continental Shelf where the gravel would be used to create an artificial island which would be used for exploratory oil well drilling operations.

Issue: May foreign-built barges be used to transport gravel from a point in the United States to a location on the Outer Continental Shelf where the gravel would be used to create an artificial island which would be used for exploratory oil well drilling operations?

Facts: The inquirer represents a United States corporation which proposes to use four Canadian-built bottom dumping barges which t owns in connection with the construction of an artificial island off the north coast of Alaska. The barges would be used to transport gravel from Thetis Island in Harrison Bay on the Beaufort Sea n Alaska to a location outside United States territorial waters. The barges are unmanned and the dump machinery aboard each barge is radio controlled.

The inquirer states that the prospective artificial island site is presently undeveloped sea bottom and the barges would only be used to dump gravel at that site. Exploratory drilling operations would not be performed on the artificial island until construction was completed. We assume, for purposes of this ruling, that no device or installation, such as a marker buoy or pilings, would be attached to or submerged onto the subsoil or seabed while the barges were transporting the gravel.

The inquirer requests a ruling that the above-described activity does not constitute coastwise trade because it does not constitute transportation of merchandise between points in the United States within the meaning of 46 U.S.C. 883.

Law and analysis: Title 46, United States Code, section 883, in pertinent part, prohibits the transportation of merchandise between points in the United States embraced within the coastwise laws in any vessel other than a vessel built in and documented under the laws of the United States and owned by persons who are citizens of the United States. A point in United States territorial waters is considered a point embraced within the coastwise laws of the United States, for purposes of this provision. Customs has ruled that "merchandise," for purposes of section 883, includes anything of commercial value, including dredged or otherwise obtained material that is to be used to create an island or jetty.

Section 4(a) of the Outer Continental Shelf Lands Act of 1953, as amended (43 U.S.C. 1333(a)) (OCSLA), provides, in pertinent part, that the laws of the United States are extended to "* * * the subsoil and seabed of the Outer Continental Shelf and to all artificial islands, and all installations and other devices permanently or temporarily attached to the seabed, which may be erected thereon for the purposes of exploring for, developing, or producing resources therefrom * * * to the same extent as if the Outer Continental Shelf were an area of exclusive Federal jurisdiction located within a State."

Under the foregoing provision, we have ruled that the coastwise laws are extended to mobile rigs during the period they are secured or submerged onto the seabed of the Outer Continental Shelf (Treasury Decision 54281(1)). Subsequent rulings applied the same principles to drilling platforms, artificial islands, and similar structures. Pursuant to the 1978 amendment to the OCSLA (discussed below), the coastwise laws were ruled to extend to devices such as a buoy marker submerged onto or attached to the Outer Continental Shelf for the purposes of resource exploration operations and to a well casing with attendant accessory systems when submerged into the seabed of the Outer Continental Shelf. However, we have never ruled that gravel dumped onto the Outer Continental Shelf which with the accretions thereto, is to create an artificial island is an installation or device attached to the seabed, as those terms are used in the OCSLA. (See House Report 95-590 on the 1978 amendment to the OCSLA, page 128, reproduced at 1978 U.S.C.C.A.N. 1450, 1534, for a list of the kind of articles which Congress intended to include within those terms.) Section 4(a) of the OCSLA specifically provides for artificial islands and we believe that the inquirer's question must be resolved by determining the applicability of that term to the operation he proposes.

Before its amendment by the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 629, 635) (1978 Amendments), section 4(a) extended the laws of the United States " * * * to all artificial islands and fixed structures which may be erected [on the subsoil and seabed of the Outer Continental Shelf] for the purposes of exploring for, developing, removing, and transporting resources therefrom * * *." The purpose of the amendment of section 4(a) in the 1978 Amendments was stated to be to make it clean "* * * that Federal law is to be applicable to all activities on all devices in contact with the seabed for exploration, development, and production." (House Report 95-590 on the 1978 Amendments, page 128, reproduced at 1978 U.S.C.C.A.N. 1450, 1534.) There is no indication in this legislative history of any purpose to change the applicability of United States laws to artificial islands erected on the Outer Continental Shelf. Thus, under section 4(a) of the OCSLA, the laws of the United States are extended to all artificial islands erected on the subsoil or seabed of the Outer Continental Shelf for the purpose of exploring for, developing, or producing resources therefrom.

The United States Supreme Court has held that an island is a "* * * naturally-formed area of land surrounded by water, which is above the level of mean high water." (*United States v. California*, 382 U.S. 448, 449, 86 S. Ct. 607, 15 L. Ed. 2d 517, 518 (1966).) Mean high water has been defined by the Supreme Court to be the average height of all high waters over a given location during a span of 18.6 years. (*Borax Consolidated, Ltd., et al. v. City of Los Angeles*, 296 U.S. 10, 27, 56 S. Ct. 23, 31, 80 L. Ed. 9, 20 (1935). See also *United States v. Ray*, 294 F. Supp. 532 (D.C. Fla. 1969), af-

rmed in part and reversed in part on other grounds, 423 F. 2d 16,
hich uses the foregoing definitions in the context of applying the
CSLA.) The word "artificial" is defined as "contrived through
uman art, or effort and not by natural causes detached from
uman agency." (*Webster's International Dictionary of the English
anguage, Unabridged,* 1971, page 124.) Accordingly, an artificial
land may be defined as "a man-made area of land surrounded by
ater, which is above the level of mean high water."

In applying the coastwise laws to the Outer Continental Shelf
nder section 4(a) of the OCSLA, we have ruled that when a drill-
g platform is attached to the Outer Continental Shelf it becomes
fixed structure and is embraced within the coastwise laws *even
ough the structure has not been completed.* We have also ruled
at a buoy marker which is submerged onto or attached to the
uter Continental Shelf for the purpose of resource exploration op-
rations is a coastwise point and transportation of passengers and/
r merchandise thereto from a United States coastwise point by a
on-coastwise-qualified vessel would be prohibited.

In neither of the foregoing instances was the device or structure
n the Outer Continental Shelf engaging or capable of engaging in
xploration operations *at the time* it was ruled to be a point in the
nited States for purposes of the coastwise laws. Analogously, we
onclude that as soon as the incipient artificial island under consid-
ration meets the definition of artificial island given above, it
ould become a point in the United States, for purposes of the
oastwise laws. Therefore, use of the non-coastwise-qualified barges
nder consideration to transport gravel from a coastwise point to
e incipient artificial island would be prohibited by 46 U.S.C. 883
hen any part of it was above the level of mean high water, wheth-
r or not it was at that time used or capable of being used for ex-
loring, developing, or producing resources from the Outer Conti-
ental Shelf. This is so because although exploratory drilling oper-
ions may not actually be performed on the artificial island until
onstruction is completed and the barges are no longer transport-
g gravel to it, the artificial island would be "* * * erected [on the
bsoil or seabed of the Outer Continental Shelf] *for the purposes of
ploring for,* developing, or producing *resources therefrom* * * *."
ection 4(a) of the OCSLA, emphasis added.) Thus, the laws of the
nited States, including the coastwise laws, would apply as de-
ribed above in this paragraph, pursuant to section 4(a) of the
CSLA and Treasury Decision 54281(1), referred to above.

The inquirer should be aware that under 46 U.S.C. 292, only a
nited States-built dredge, with a now obsolete exception, may
gage in dredging in the United States, including the territorial
aters thereof.

Holdings: 1. Foreign-built barges *may* be used to transport gravel
om a point in the United States to a location on the Outer Conti-
ental Shelf where an artificial island is being constructed with

that gravel, without violating 46 U.S.C. 883, until any part of the incipient artificial island is above the level of mean high water.

2. Foreign-built barges *may not* be used to transport gravel from a point in the United States to a location on the Outer Continental Shelf where an artificial island is being constructed with that gravel when any part of the incipient island is above the level of mean high water because such transportation would be coastwise trade in violation of 46 U.S.C. 883.

(C.S.D. 83-95)

This ruling holds that the sale of merchandise from the middleman to the importer represents transaction value pursuant to TAA #57

Date: May 16, 1983
File: CLA-2:CO:R:CV:V
542992 MK

Re: Application for Further Review of Protest No. 1001-2-006202, dated June 10, 1982.

This protest was filed against your appraisement of a shipment of shirts entered under consumption entry No. 82-252318 on February 24, 1982.

In August 1981 the importer, (corporation name) placed a purchase order for the merchandise with (the middleman) in Hong Kong. The purchase order specified the quantities, styles, colors, etc., gave the total value of the order and stated that the purchase was FOB Hong Kong. (middleman), in turn, ordered and purchased the shirts from a manufacturer in the People's Republic of China (PRC), and resold them to the importer. The shirts were exported from the PRC to the importer via Hong Kong, where they were transferred to another vessel for onward shipment to the U.S.

Your office appraised the merchandise on the basis of transaction value, represented by the price from the importer to (middleman). The importer's attorney argued that transaction value was properly represented by the price from (middleman) to the manufacturer, and that the facts in this case are distinguishable from those in TAA #38, which you cited in your Protest and Summons Information Report.

After the protest was filed, Headquarters issued TAA #57. Because we believe that ruling is dispositive of this protest, we will not address the argument which was in the protest file.

TAA #57 involved a Virgin Islands corporation (VI) which proposed to have certain cooking apparatus manufactured by a company in the Far East according to VI's specifications. The apparatus would conform to U.S. electrical standards and, in most cases, would be shipped directly from the manufacturer to the U.S. importer pursuant to a sale from VI to the importer.

Our ruling contrasted certain export value concepts with similar ies under the TAA and stated that cases decided under prior law e not necessarily precedent under the TAA. We concluded that in ie statutory definition of transaction value, the transaction to hich the phrase "when sold for exportation to the United States" fers when there are two or more transactions which might give se to a transaction value, is the transaction which most directly uses the merchandise to be exported to the United States. (For asons not relevant to this case, we also concluded that transacon value was inapplicable.)

When we advised the importer's attorney of our preliminary inon, he submitted an additional argument to support his contenon that this case is distinguishable from TAA #57.

He states, first, that TAA #57 does not say whether the sale om VI to the importer took place prior to exportation, but asmes (from statements in the ruling and the answer to Question in the "Value Book") that this was the case and that both sales curred in the country of exportation. He then points out that rsuant to the purchase order, the importer purchased from (mideman) FOB Hong Kong. Since the PRC was the country of exportion, the goods were exported to the U.S. prior to the sale from iddleman) to the importer, which latter sale did not occur until e merchandise reached Hong Kong. Thus, under the principle set rth in Question 34 of our valuation book, the resale by (middlean) to the importer of goods previously sold for export may not rm the basis of transaction value. The only sale which can do so the sale from the manufacturer to (middleman).

Assuming for the sake of argument that both sales could form e basis of transaction value, the attorney contends that the earli sale (from the manufacturer to (middleman)) should take precence under the holding in TAA #57, that where two transactions uld form the basis of transaction value, the transaction which ost directly causes" the exportation of the merchandise to the nited States is the one which is the basis for transaction value. a result of the sale from the manufacturer to (middleman), the erchandise was exported to the United States, and therefore this le most directly caused the exportation of the goods to the United ates.

Finally, the attorney argues that sections 402(c)(2) and 402(f), nile not directly applicable to this case, indicate a legislative bias wards the lower of two prices when alternatives are available.

In reply, we conclude, first, that the facts in TAA #57 and this se are, in all material elements, the same. The manufacturer was cated in one country, the middleman who ordered and purchased e goods from the manufacturer was located in a different coun-, and the importer was located in the United States. Both cases volved a sale from the manufacturer to the middleman and another sale from the middleman to the importer, and the merchandise was shipped from the manufacturer to the importer.

We also disagree with the view that the sale from (middleman) to the importer did not occur until the merchandise reached Hong Kong. In our view, the importer's purchase order and its acceptance by (middleman) constituted a contract for the sale of future goods, title to which passed to the importer when the goods were placed on board the vessel in Hong Kong. The merchandise was not resold while in transit to the U.S. Rather, the transfer of title to the importer was in furtherance of the preexisting contract to sell. That contract and the transfer of title to the importer were the "transaction" which most directly caused the goods to be exported to the United States.

Finally, we recognize the "legislative bias" favoring the lower of two prices when under a secondary basis of appraisement, that option is available, but in this case we are dealing with the primary basis of appraisement and we do not believe there are alternative options.

For the foregoing reasons, you are directed to deny the protest in full. Please send the importer's attorney the enclosed copy of our decision with your notice of denial. We return your file.

(C.S.D. 83-96)

This ruling holds that a foreign trade zone (FTZ) user is permitted to change the status of foreign merchandise in a (FTZ) to that of privileged domestic by making entry and paying the applicable duty without actually removing the merchandise from the zone (19 U.S.C. 81a-u)

Date: June 1, 1983
File: FOR-1-CO:R:CD:D
215870 RB

Issue: May a foreign-trade zone (FTZ) user obtain privileged domestic status on unused foreign merchandise in a zone by making entry therefor and paying the applicable duty without actually removing the merchandise from the zone, if in so doing there is no interference with the protection of the revenue.

Facts: An FTZ user wants to obtain privileged domestic status on unused foreign merchandise in a zone by making entry therefor and paying the applicable duty without actually removing the merchandise from the zone. Generally speaking, the reason for this is that sometimes the FTZ user's Automated Inventory Control System (AICS) does not reflect what is actually being manufactured in the zone. One example cited by the FTZ user in this connection is that the list of parts which are used to form the basis of value of the product that is entered into the Customs territory of the United States is wrong—that is, a different part is substituted for he one shown on the inventory records and the error is not discovered until after the entry has been completed and duty paid.

In such a case, however, the FTZ user does not wish to amend he entry and return the unused part to its former zone status obaining a refund of the duty paid. It contends that to do so under he circumstances unreasonably burdens its zone inventory and acounting procedures. Instead, it prefers simply to let this entry tand and to treat as privileged domestic merchandise the unused art covered thereunder which has not left the zone. Thereafter, a eparate entry would be made for the substituted part which is sed in manufacture and the applicable duty would be paid there-n.

Law and analysis: It is well settled that a statute must be interreted so as to give effect to its underlying statutory purpose and gislative intent (see *Mount Washington Tanker Company* v. *nited States,* 505 F. Supp. 209 (U.S.C.I.T. 1980) and cases cited nerein). In this regard, the Foreign-Trade-Zone law, as amended, U.S.C. 81a–u, was intended to stimulate American business and bor by permitting the conduct of any lawful activity in a zone nder minimum cost conditions to the extent that this is consistent ith the protection of the revenue and the security of the national onomy (see S. Rept. 1170 dated September 26, 1949, 1950, U.S. ode Cong. and Admin. News 2533, at 2534; also see H. R. Hearing, ommittee on Ways and Means, dated May 10, 1948, at pp. 6–8).

In order to effectuate the underlying purpose of the FTZ law in ght of the proliferation of zones and subzones throughout the nited States and the vastly increased volume of business and the yriad of complexities attendant thereupon, an FTZ user must be rmitted to simplify and facilitate its inventory and recordkeeping stems to the extent legally permissible.

For this purpose, we have previously authorized first-in, first-out IFO) accounting (C.S.D 81-62) and "foreign-first" accounting eadquarters letter dated October 7, 1982, file FOR-1-CO:R:CD:D 5061 RB) for inventory control purposes in zones; and we have mmenced a trial program whereby foreign merchandise, subject specified Customs controls and conditions, may be temporarily moved from a zone without formal entry for the performance of rtain limited operations and thereafter returned in the same ne status to the zone from which removed (Headquarters letter ted August 31, 1982, file FOR-1-CO:R:CD:D 214189 RB). These cisions are specifically designed to remove unnecessary burdens zone inventory and accounting procedures where, in so doing, ere is no danger to the revenue.

Similarly, in the present case, based upon the facts presented, ere is no danger to the revenue in permitting an FTZ user, in the erest of simplifying its accounting procedures, to change the tus of foreign merchandise in a zone to that of privileged domes- by making entry therefor and paying the applicable duty without actually removing the merchandise from the zone. Furthermore, requiring the FTZ user in this case physically to remove the merchandise from the zone in order to obtain privileged domestic status therefor would be a meaningless, perfunctory exercise needlessly complicating zone procedures without benefit to either the zone user or the Customs Service.

Holding: Based upon the foregoing, the answer to the issue presented in this case is yes. Also, in analogous cases, Customs will be flexible in permitting practical inventory and accounting procedures provided that they likewise do not interfere with the protection of the revenue.

Effect on other rulings: C.S.D. 79-378 and Legal Determination 3213-01 to the extent inconsistent with this ruling are modified accordingly.

(C.S.D. 83-97)

This ruling holds that the election of privileged status for merchandise allows a Foreign Trade Zone user to have individual parts or components classified at the time privilege is requested, and without reference to the entireties doctrine (19 U.S.C. 81c)

Date: June 8, 1983
File: FOR-1-CO:R:CD:D
215720 L

Issue: The issue relates to the application of the doctrine of entireties to merchandise removed from a foreign-trade zone (FTZ).

Facts: No factual situation is presented. On the basis of its analysis of case law and administrative rulings, the inquirer requests a ruling confirming its conclusion that:

> [M]erchandise is evaluated under the entireties provision as of the date merchandise is brought within the nation's territorial boundaries with intent to unlade, regardless of whether the merchandise is to be admitted to a FTZ. It is not applied as of the date of admission to a FTZ, as of the date of election of privileged foreign (PF) status, or as of the time of withdrawal of merchandise in PF status. However, it may also be applied as to nonprivileged foreign (NPF) merchandise when that merchandise is constructively transferred to the Customs territory as this is part of the choice of classification afforded a FTZ user under the Foreign-Trade Zones Act.

Law and analysis: The discussion is most easily managed by being divided into four parts.

I. The General Rule

As a general rule goods are "imported" when they are brought within a Customs district of the United States with an intent to unlade. *Hollander Co. v. U.S.*, 22 CCPA 645, T.D. 47632 (1935); *Estate of Pritchard v. U.S.*, 43 CCPA 85, C.A.D. 612 (1955); *Sterling Bronze Co. v. U.S.*, 12 Ct. Cust. Appls. 338, T.D. 40487 (1924); *Mills & Gibbs Corp. v. U.S.*, 13 Ct. Cust. Appls. 72, T.D. 40933 (1925); and *Charles T. Smith, Inc. v. U.S.*, 11 Ct. Cust. Appls. 39, C.D. 789 1943).

United States v. Schoverling, 146 U.S. 76, 13 Sup. Ct. 24 (1892), is a case that follows the general rule. Gunstocks and barrels were separately imported for the account of the same importer. The Colector of Customs attempted to assess duty upon these separate importations based on the importer's intent to assemble them after mportation. The court held that duty must be assessed based upon the condition of the articles *as imported*.

In *United States v. Irwin*, 78 Fed. 799 (2d Cir. 1897), the court used the same rationale but reached a different result because parts of shotguns were imported on the same vessel, merely in different boxes; they were seen to be entireties upon the moment of their importation. The court of appeals went on to say, however, that if the parts had been shipped on separate vessels they could be considered as separately dutiable even though they arrived on the same day.

This rationale was extended in *James G. Wiley a/c Pasadena Firearms Co. v. U.S.*, C.D. 2645 (1966). Barrels and frames were shipped on separate aircraft which arrived in the United States on the same day; formal entry was made by two separate consumption entries dated the same day. The court saw the question to be whether the fact that the parts were invoiced and shipped on separate aircraft and were imported and entered on the same day allowed Customs to merge importations and treat the articles as entireties for tariff purposes. The court held that it did not. It said:

> In order to produce uniformity in imposition of duties, the dutiable classification of articles imported must be ascertained by examination of the imported article itself, in the condition in which it is imported. *Worthington* v. *Robbins*, 137 U.S. 337 (1890) * * *.
>
> The happenstance of safe, same day arrival should not destroy the desired uniform tariff treatment of goods. * * *
>
> When airplane No. 1 or vessel No. 1 arrives within the jurisdiction with intent to unlade its cargo, importation is complete, and the *condition* of the merchandise is established. Although the applicable amounts of duty may be determined only after entry, payment and unconditional delivery, the *condition* of the merchandise attaches upon importation.

The court said that importations on separate aircraft, made the subject of separate entries, were not subject to the entireties doctrine. The court further stated:

> The purpose and intent of the importer notwithstanding, the importer had the right to have his goods * * * imported in the

> manner which would produce the lowest possible duty assessment * * * Customs examination must focus on the identity of the articles themselves as disclosed in legitimate entries.

In *U.S.* v. *Baldt Anchor, Chain & Forge Division of Boston Metals*, 459 F. 2d 1403, C.A.D. 1051 (1972), the court, citing *Wiley, supra*, took an even firmer stand. Where six machines which were designed to be used together in a continuous processing of welded anchor chain were imported in two separate shipments, the court said that articles not imported together were precluded from being classified as entireties. In this case, however, it was the importer that was seeking to have its machines classified as an entirety.

II. Exception to the General Rule—Warehoused Goods

There is a line of cases that hold that goods in bonded warehouses are not to be considered "imported" until a permit of delivery has been issued and they then enter into the commerce of the United States. *Stone and Downer Co.* v. *U.S.*, 19 CCPA 259, T.D. 45388 (1931); *Casazza & Bro.* v. *U.S.*, 13 Ct. Cust. Appls. 627, T.D. 41481 (1926); *Hartranft* v. *Oliver*, 125 U.S. 525 (1887); *Five Per Cent Cases*, 6 Ct. Cust. Appls. 291, T.D. 35508 (1915); *Atlas Marine Supply Co.* v. *U.S.*, C.D. 549 (1941); *Parfums Corday, Inc.* v. *U.S.*, C.D. 597 (1942). See also *dicta* at page 351 of *Franklin Industries Inc.* v. *U.S.*, 1 CIT 349 (1981).

III. Reinforcement of the Exception—law concerning manipulation

The manipulation statute, 19 U.S.C. 1562, reads in part as follows:

> [M]erchandise may be cleaned, sorted, repacked, or otherwise changed in condition, but not manufactured, in bonded warehouses established for that purpose and be withdrawn therefrom * * * for consumption, upon payment of duties accruing thereon, in its condition and quantity and at its weight, at the time of withdrawal from the warehouse, with such * * * deductions from the final appraised value as may be necessary by reason of change in condition. * * *

In *Marques Del Merito, Inc.* v. *U.S.*, 36 CCPA 38, C.A.D. 394 (1948), the court decided that in 19 U.S.C. 1562 Congress evidenced an intention to make an exception to the rule that "importation" means bringing goods within the jurisdictional limits of the United States with an intention to unlade. The court states that goods become subject to duty ("imported") in their condition at the time of withdrawal from the warehouse.

The lower court discussed this subject and reached the same conclusion in *Marques Del Merito, Inc.* v. *U.S.*, C.D. 1080 (1948); the court found that section 1562 required reclassification of merchanise if, in fact, the manipulation changed the dutiable character of he merchandise. The court said:

> By the provisions of the T.A. of 1930, as amended, Congress intended to change the ordinary rules regarding classification of merchandise so as to make the condition upon withdrawal from the warehouse of merchandise manipulated under that section the determinant of its classification.

The policy of the Customs Service in this area has consisted of ttempts to hold the line of the classification of "parts" after warehousing and manipulationby use of the doctrine of entireties. The ttempts have not been successful. In *Garvey* v. *U.S.*, 35 Cust. Ct. 1, C.D. 1726 (1955), the following sentence of the Customs Regulaions, section 19.11(d), was held to be invalid:

> * * * but if the manipulation produces two or more parts of an article constituting an entirety, the parts shall not be classified separately if all the parts constituting the entirety are withdrawn for consumption under a single withdrawal.

The court reasoned that this was an amendment to 19 U.S.C. 562 not intended by Congress. Customs published T.D. 54067, which deleted the sentence held invalid by C.D. 1726, specifically noting that the deletion was to conform to the court decision that held:

> [W]here manipulation under section 562 of the T.A. of 1930, as amended, produced two separate articles which constitute an entirety, they are classifiable separately whether or not withdrawn for consumption under a single withdrawal. (*N.B.*, this case came down prior to the promulgation of General Headnote 10(h), Tariff Schedules of the United States).

The Customs Court was even more explicit in *Manca, Inc.* v. *U.S.*, Abs. 62666 (1959). Merchandise had been entered into a warehouse as completed microscopes by the importer; they were manipulated, dismantled and repacked and withdrawn as parts of microscopes (under two different classifications) on one warehouse withdrawal for consumption. In discussing C.D. 1726, the court said that one sentence of section 19.11(d) had been held invalid because "in seeking to fix a classification as entireties on manipulated merchandise when it is withdrawn for consumption under a single withdrawal the said provision had the effect of imposing a limitation on the statute which was not applied by Congress. Under the stipulated facts the cited decision has equal force and effects in this case."

IV. Entireties and FTZ's

Section 81c of 19 U.S.C. provides that when foreign merchandise is sent form a zone into Customs territory it shall be subject to the laws and regulations affecting imported merchandise. It further provides that whenever the privilege shall be requested for foreign merchandise, the merchandise will be appraised and taxes determined and duties liquidated.

We view the statutory language as an exception to the general rule on entireties much in the same manner as warehoused goods manipulated in warehouse are an exception to the general rule. This view is borne out by the administrative opinions and rulings cited by the inquirer, *i.e.*, 206843, December 14, 1976; 207993, August 24, 1977; 208546, December 20, 1977; and 213283 (L.D. 81-0204), August 31, 1981.

This does not mean that goods are not imported when they arrive in the United States with the intent to unlade. It does mean, in the case of warehoused goods and goods manipulated in warehouse, that the determination of the dutiable status of those goods is made when they are withdrawn from warehouse for consumption. The warehouse period, however, starts on the date of importation, not the date of withdrawal from warehouse for consumption.

We believe the same rationale applies in FTZ's and this belief is supported by *dicta* in the *Franklin Industries, Inc.* case, *supra*, where it is noted, at page 351, that:

> [P]laintiff might have sought to utilize the provisions of the Tariff Act of 1930, as amended, relating to the Foreign Trade Zone and Warehousing in order to achieve unitary classification of the boring mill even if it were obliged to dismantle the mill and ship parts of it at different times.

Holding: The FTZ Act creates an exception to the general rule governing entireties, with a choice of classification being afforded the FTZ user (19 U.S.C. 81c). Classification of nonprivileged merchandise is determined upon transfer from an FTZ and entry for consumption or warehouse in accordance with 19 CFR 146.48(e). Election of privileged status allows an FTZ user to have individual parts or components classified at the time privilege is requested and without reference to the entireties doctrine.

(C.S.D. 83-98)

This ruling holds that delivery receipts involving transactions o affiliated companies, which are signed by the driver of a company-owned truck, may be accepted by the Regional Commissioner for use by the drawback claimant as proof of exportation under the Uncertified Notice of Exportation Procedure (1 CFR 22.7(c))

Date: June 14, 1983
File: DRA-2-02-CO:R:CD:D
215744 SMC

Issue: May delivery receipts signed by drivers of company-owne trucks be used to support uncertified notices of exportation covering merchandise exported to Canada under the Uncertified Notic of Exportation Procedure provided for in section 22.7(c), Customs Regulations (19 CFR 22.7(c)).

Facts: A corporation holding a drawback rate desires to use the uncertified notice of exportation procedure set out in section 22.7(c), Customs Regulations, with respect to shipments made to its Canadian affiliate via company-owned trucks. Because company-owned and operated trucks are used, no bills of lading or freight bills are available for proof of exportation. The company desires to use delivery receipts made out in the name of its Canadian affiliate and signed by the drivers of its company-owned trucks as proof of exportation.

Law and analysis: One of the options by which a drawback claimant has to prove exportation of merchandise is the uncertified notice of exportation procedure. Under this procedure set out in section 22.7(c) of the regulations, uncertified notices of exportation (CF 7511's) must be supported by documentary evidence, such as the bill of lading, air waybill, Canadian Customs manifest, cargo manifest, or certified copies thereof, *issued by the exporting carrier*, and any additional evidence required by Customs officers to establish fully time and fact of exportation. (Emphasis added). This listing of acceptable documents for proof of exportation is illustrative of the types acceptable, and is not meant to be exclusive of others.

In determining if a document is acceptable as evidence of exportation, one possibility for error or fraud which the Customs Service wishes to avoid is that a claimant will prepare self-serving evidence. We try to avoid this by requiring evidence of exportation containing the signature of a third party, for example, the carrier. This cannot always be done, however, as in the case of the above-described situation involving a company exporting merchandise to its affiliated Canadian company with the use of its own trucks. In such a situation, both the carrier and the recipient are owned by the exporter. Since a company using its own trucks is not considered a common carrier and therefore is not required to prepare bills of lading under ICC regulations, evidence of exportation signed by a truly disinterested third party is not often available. Nevertheless, the company is entitled to drawback when it complies with the law. In such situations, the truck driver's signature may be accepted as the carrier's signature.

Therefore, a document involving a transaction in which the exporter, carrier, and recipient are related, may be accepted as proof of exportation to the same extent as any bill of lading, provided the document identifies the merchandise exported, indicates the fact and date of exportation, is signed by the truck driver, and is approved for use by the Region involved. Any specified copy of the document may be used as proof of export, but the claimant must use the same specified copy in every claim and not select the copy to be used at random. In such cases, frequent and careful audits shall be made.

Holding: Delivery receipts signed by the driver of a company-owned truck involving transactions in which the exporter, carrier, and recipient are related, may be accepted by the Regional Commissioner, for use by the drawback claimant as proof of exportation under the Uncertified Notice of Exportation Procedure.

(C.S.D. 83-99)

This ruling holds that under the subsequent proceeds provision, Section 402(b)(1)(E) of the Trade Agreements Act, royalty and license fees may not be included in transaction value of the imported merchandise

Date: December 9, 1982
File: CLA-2 CO:R:CV:V
542900 CW
TAA #56

To: District Director of Customs, Charleston, South Carolina 29402.
From: Director, Classification and Value Division.
Subject: Internal Advice No. 109/82; Dutiability of Various Monetary Transfers Between Related Parties.

This is in reference to your memorandum of May 25, 1982, received in this office on August 12, 1982, which initiated the above-referenced internal advice request. The issues presented for consideration concern the dutiablity of certain monies, representing royalty-trademark fees and a portion of the proceeds from the resale of the imported merchandise, paid by the affected importer, (company) to its parent company in England, (foreign seller). All parties concerned agree that transaction value under section 402(b) of the Tariff Act 1930, as amended by the Trade Agreements Act of 1979 (TAA), is the proper basis of appraisement.

These issues orginally arose as a result of an audit of the importer's operations conducted by the Regulatory Audit Division, Miami Region. The Audit report, dated April 26, 1982, concluded that both the royalty-trademark fees and the resale proceeds paid to the foreign seller are dutiable pursuant to section 402(b)(1)(E) of the TAA the provision which provides for the inclusion in transaction value of:

> (E) The proceeds of any subsequent resale, disposal, or use of the imported merchandise that accrue, directly or indirectly, to the seller.

The record reveals that the importer produces finished microjectors from microjector components and steel bars which it purchases from its parent company in England. The finished articles are then resold to (third party) for use as part of diesel fuel injection equipment on (automobile name) vehicles. The importer and the foreign seller have entered into an agreement in which the former agrees to pay the latter, on a quarterly basis, a 5-percent royalty-trade mark fee which essentially is based on the difference between the importer's purchase price for the imported components and the resale price of the completed microjectors in the United States.

In the opinion of your office, the royalty-trademark fee is not dutiable under the TAA provision for royalty or license fees, section 402(b)(1)(D), because payment of the fees is not a condition of the sale for export of the microjector components from England. However, your office agrees with the Regulatory Audit Division that the fee *is* dutiable as a proceed of a subsequent resale under section 402(b)(1)(E). Counsel for the importer maintains that the fee is not dutiable under the royalty or license fee provision since the payment is, in effect, based on the value added in the United States and, thus, is unrelated to the imported merchandise. Counsel also contends that the fee is not dutiable under the subsequent proceeds provision for the reason that it clearly was not the intention of Congress:

> * * * to divide royalty payments into dutiable and nondutiable categories only to negate that division by returning most royalty payments found to be not dutiable under (D) to a dutiable status under (E).

Section 402(b)(1)(D) provides for the inclusion in transaction value of:

> (D) Any royalty of license fee related to the imported merchandise that the buyer is required to pay, directly or indirectly, as a condition of the sale of the imported merchandise for exportation to the United States.

We are unable to determine conclusively from the written agreement between the importer and the foreign seller whether or not the royalty-trademark fees are required "as a condition of the sale of the imported merchandise." However, inasmuch as the value of the imported components specifically is excluded from the royalty computation formula, it is our opinion that the fee is not "related to the imported merchandise," as those words are used in subparagraph (D). The royalty-trademark fee, therefore, is not dutiable under this provision.

Concerning the proposed inclusion of the fee in transaction value as a proceed of a subsequent resale, this office concurs with the opinion expressed by counsel for the importer on this point. The existence of two separate categories, one specifically relating to royalty and license fees and the other to the proceeds of a subsequent resale, use or disposal of the imported merchandise, clearly indicates to us that the two categories were not intended to cover the same set of circumstances. Thus, when a royalty or license fee is found not to be a part of transaction value under category (D), no authority exists for including the fee in transaction value as "the proceeds of any subsequent resale, disposal, or use of the imported merchandise that accure, directly or indirectly, to the seller." We, therefore, conclude that payments made under the royalty-trademark agreement in this case are not includable in transaction value.

In regard to the second issue, the importer and foreign seller have agreed that the former will retain 8 percent of the resale price of the microjectors in the United States while the remaining proceeds of the resale will accrue to the seller. Both your office and counsel for the importer concur in the audit report conclusion that the amount of the proceeds accruing to the seller under this agreement is dutiable under section 402(b)(1)(D). We agree.

(C.S.D. 83-100)

This ruling holds that the refund of special tonnage tax and light money assessed on an American vessel should be denied for failure to provide a valid reason for not depositing, with appropriate Customs officers, the Original Certificate of Documentation issued by the U.S. Coast Guard for that vessel. (46 U.S.C. 8)

Date: May 1, 1983
File: VES-11-10-CO:R:CDC
106058 HS

To: District Director of Customs, Los Angeles, California 90731.
From: Director, Carriers, Drawback and Bonds Division.
Subject: Refund of Special Tonnage Tax and Light Money Assessed on the American barge (vessel name).

This is in response to your letter of March 7, 1983, forwarding a request by (Corporation name) for review by Headquarters of your decision to deny the (vessel) a refund of special tonnage tax and light money.

The (vessel), an American barge, arrived in Los Angeles/Long Beach on February 23, 1982. At time of formal entry, the vessel's registry was not on board and was thought to be lost. A photocopy of the registry was presented. Customs contacted the Coast Guard in San Francisco, the home port, and verified that the vessel was a United States-registered vessel. However, because the official document was not on board the vessel, when Customs suggestion that a new or temporary document be obtained from the Long Beach Coast Guard was rejected by the broker because the broker preferred to wait until the vessel reached its home port, Customs charged special tonnage tax of $442.50 and light money of $442.50 on the vessel. The broker applied for a refund of the special tonnage tax and light money on April 7, 1982, stating that it had proved to Customs through the photocopy and their conversation with the Coast Guard that the (vessel) was a U.S.-flag vessel and therefore, was not subject to special tonnage tax and light money. You denied the application for a refund in April of 1982 because the barge was undocumented at the time of entry in Los Angeles/ Long Beach. Western Overseas, by letter of February 16, 1983, now requests that we review your denial of the refund.

Title 46, United States Code, section 8, provides that whenever any charges arising under the laws relating to vessels or seamen has been paid to any Customs officer, and application has been made within one year from such payment for the refund or remission of the payment, the Commissioner of Customs has the power to refund so much of the charges as he thinks proper if upon investigation he finds that such charge was illegally, improperly or excessively imposed.

Any application for a refund of special tonnage tax filed pursuant to section 8 must also be made in accordance with section 4.24, Customs Regulations. Pursuant to section 4.24(c), Customs Regulations, application shall be made within one year from date of payment. Application in this case was made on April 7, 1982, well within the one year statute of limitations.

Before or at the time of formal entry of an American vessel, the original Certificate of Documentation issued by the U.S. Coast Guard must be deposited with the appropriate Customs officer (section 1434, Tariff Act of December, 1930, as amended; section 4.9(b), Customs Regulations). The net tonnage of the American vessel, found under section 4.20(a), Customs Regulations, is based on the original Certificate of Documentation. Since the original Certificate of Documentation was not so presented in this case, Customs officers treated the vessel as an undocumented vessel owned by citizens and, pursuant to the table in section 4.20(c), Customs Regulations, properly collected special tonnage tax and light money.

The U.S. Coast Guard has informed us that Document No. 611224 was issued to the (vessel), owned by (company name) on November 5, 1979. Due to the Vessel Documentation Act (see T.D. 82-138), the original document was turned into the Coast Guard on September 3, 1982 and a new Certificate of Documentation was issued on September 8, 1982.

The reason given in the application for refund for not producing the original document is that the document "was not on board and was thought lost, possibly taken by the Mexican authorities before her arrival here in L.A." The petition refers to "a lost document." Since the Coast Guard informs us that the document was turned in on September 3, 1982, it is apparent that it was not lost. Therefore, since the petitioner's explanation of the reason for not depositing the document does not appear to be valid, the petition is denied.

(C.S.D. 83-101)

This ruling holds that vitamin E of the United States orig
which is shipped in bulk to Mexico for encapsulation and the
returned in that condition to the United States would be cla
sifiable under item 412.60 of the Tariff Schedules of the Unit
States (TSUS)

Date: June 16, 1983
File: CLA-2 CO:R:CV:VS
071334 FF

This is in reply to your letter dated April 29, 1983, concerni
the tariff status of vitamin E (dl alpha Tocopheryl Acetate)
United States origin which will be shipped in bulk to Mexico f
encapsulation and then returned in that condition to the Unit
States.

You indicate that you were informally advised that the capsul
upon return to the United States would be subject to full duty d
spite the fact that the bulk vitamin E was produced in the Unit
States. You are of the opinion that this result would penalize t
United States supplier of bulk vitamin E for the reason that som
one could either (1) import vitamin E of European or Japane
origin, export the bulk vitamin E for encapsulation with benefit
drawback and pay duty on the capsules upon their importati
into the United States or (2) purchase and ship the bulk vitamin
directly to Mexico on a CIF basis. You state that you would pref
to deal directly with the United States producer without sufferi
additional costs and you therefore request that we reevaluate th
situation so as to conclude that duty would be based only on t
foreign costs attributable to the imported product.

It should first be pointed out that all merchandise imported in
the United States is subject to duty on its total value and quanti
unless specifically exempted. Under item 800.00, Tariff Schedul
of the United States (TSUS), products of the United States are ent
tled to duty-free entry when returned after having been exporte
provided that they have not been advanced in value or improved
condition by any process of manufacture or other means whi
abroad. There are no other provisions in the tariff schedules allo
ing a reduced or free rate of duty which could possibly apply to t
merchandise described in your letter.

As concerns the two described situations which you belie
would operate to the detriment of United States suppliers of vit
min E, it should be noted, first, that Headnote 1, Part 1, Schedu
8, TSUS, provides that, in the absence of a specific provision to t
contrary, the tariff status of an article is not affected by the fa
that it was previously imported into the United States and clear
through Customs with or without the payment of duty, an
second, that under Headnote 1(a) of Subpart A of that Part, ite
800.00, TSUS, does not apply to any article exported with benefit

drawback; therefore, vitamin E of European or Japanese origin imported into the United States with payment of duty and then exported with benefit of drawback and then reimported would not be subject to duty-free treatment under item 800.00, TSUS, and thus would be dutiable on its full value. Similarly, if vitamin E of foreign origin were sent directly to Mexico for encapsulation, duty would be assessed on the full value of the product upon its importation into the United States. We therefore do not believe that United States suppliers of vitamin E would be penalized as you suggest in your letter.

With respect to the encapsulation of United States vitamin E in Mexico, we are of the opinion that item 800.00, TSUS, would not apply to the product upon its importation into the United States. In this regard it is noted that the effect of this procedure is to render the bulk product suitable for direct administration by the ultimate consumer in an individual dose; the capsules therefore become part of the imported product to be swallowed and thus must be distinguished from those containers or packings which are merely intended to facilitate transportation or retail sale and which have a function separate and distinct from the products which they contain. Moreover, there seems to be no doubt that the encapsulation results in products which have a higher total value than the bulk vitamin E prior to encapsulation. Accordingly, we are of the opinion that the product exported from the United States would be advanced in value and improved in condition within the meaning of item 800.00, TSUS.

Accordingly, the merchandise in question is classifiable in item 412.60, TSUS, and is dutiable on its full value at the rate of 12.9 percent ad valorem.

(C.S.D. 83-102)

This ruling holds that parts of firearms entered for a warehouse at the same or different times and later manipulated in the warehouse by repacking and sorting and finally withdrawn for consumption are classified as firearms provided that sufficient parts will constitute the desired number of firearms. (19 U.S.C. 1562, CD 1726, TD 54067 and General Headnote 10(h), TSUS).

Date: June 17, 1983
File: WAR-1-CO:R:CD:D
215878 L

Issue: Are parts of firearms imported and entered into a Customs bonded warehouse at the same or different times, there repacked and sorted, and subsequently withdrawn from warehouse for consumption in various forms but with parts sufficient to constitute a specific number of firearms, treated as parts of firearms or as entireties?

Facts: Parts of firearms will be imported in the following circumstances and placed in bonded warehouse:

1. Parts sufficient to produce a given number of firearms will be imported in a single shipment and entered into the warehouse. Those parts will be so packed that each carton will contain the parts necessary to produce one firearm or a specific number of firearms.

2. Parts sufficient to produce a given number of firearms will be imported in a single shipment and entered into the warehouse. However, unlike the circumstances above, each carton of the shipment will contain a single type of part. That is, one carton would contain 50 barrels, another would contain 50 stocks, another would contain 50 triggers, etc.

3. Parts of firearms will be imported in various shipments and placed in bonded warehouse without regard to whether or not any particular shipment contained the requisite number and variety of parts to produce a specific number of firearms.

We are asked to assume, for the purposes of this ruling, that the parts withdrawn from the warehouse for consumption will be so configured that they will qualify for tariff classification as complete, but unassembled, firearms pursuant to General Headnote 10(h), Tariff Schedules of the United States.

In the case of situation No. 1, those numbers of cartons required by the exigencies of business will be withdrawn for consumption. After withdrawal, the firearms will be assembled.

In the case of situations No. 2 and No. 3, parts necessary to constitute a specific number of firearms will be sorted out and repacked. Those repackaged parts will thereafter be withdrawn for consumption and assembled into firearms.

Law and Analysis: As a general rule, articles are imported when they arrive within the Customs territory of the United States with intent to unlade. *James G. Wiley, a/c Pasadena Firearms Co.* v. *U.S.*, C.D. 2645 (1966), and cases cited therein.

United States v. *Schoverling*, 146 U.S. 76, 13 Sup. Ct. 24 (1892), follows the general rule. Gunstocks and barrels were separately imported for the account of the same importer. The Collector of Customs attempted to assess duty upon these separate importations based on the importer's intent to assemble them after importation. The court held that duty must be assessed based on the condition of the articles as imported.

United States v. *Irwin*, 78 Fed. 799 (2d Cir. 1897), used the same rationale but reached a different result because parts of shotguns were imported on the same vessel, merely in different boxes; they were seen to be entireties upon the moment of their importation. The court went on to say, however, that if the parts had been shipped on separate vessels they could be considered as separately dutiable even though they arrived on the same day.

ı *Wiley, supra,* the court said that importation on separate airft arriving on the same day and made the subject of separate ries were not subject to the entireties doctrine. *United States v. 'dt Anchor, Chain & Forge Division of Boston Metals,* 459 F. 2d. 4, C.A.D. 1051 (1972), said that articles not imported together re precluded from being classified as entireties.

Varehoused goods represent an exception to the general rule. ere is a line of cases which hold that goods in bonded wareses are not to be considered "imported" until a permit of deliv- has been issued and they then enter into the commerce of the ited States. *Stone and Downer Co. v. U.S.,* 19 CCPA 259, T.D. 88 (1931); *Casazza & Bro. v. U.S.,* 13 Ct. Cust. Appls. 627, T.D. 81 (1926); *Hartranft v. Oliver,* 125 U.S. 525 (1887); *Five Per Cent ses,* 6 Ct. Cust. Appls. 291, T.D. 35508, (1915); *Atlas Marine ply Co. v. U.S.,* C.D. 549 (1941); *Parfums Corday, Inc. v. U.S.,*). 597 (1942). See also *dicta* at page 351 of *Franklin Industries . v. U.S.,* 1 CIT 349 (1981).

The exception is reinforced by the cases concerning 19 U.S.C. 2, the manipulation statute. Section 1562 provides in part that:

> [M]erchandise may be cleaned, sorted, repacked, or otherwise changed in condition, but not manufactured, in bonded warehouses established for that purpose and be withdrawn therefrom * * * for consumption, upon payment of duties accruing thereon, in its condition and quantity and at its weight, at the time of withdrawal from the warehouse, with such * * * deductions from the final appraised value as may be necessary by reason of change in condition.* * *

n *Marques Del Merito, Inc. v. U.S.,* 36 CCPA 38, C.A.D. 394 48), the court decided that in 19 U.S.C. 1562 Congress evidenced intention to make an exception to the rule that "importation" ans bringing goods within the jurisdictional limits of the United tes with an intention to unlade. The court states that goods came subject to duty ("imported") in their condition at the time withdrawal from the warehouse.

The lower court discussed this subject and reached the same consion in *Marques Del Merito, Inc. v. U.S.,* C.D. 1080 (1948); the rt found that section 1562 required reclassification of merchane if, in fact, the manipulation changed the dutiable character of merchandise. The court said:

> By the provisions of the Tariff Act of 1930, as amended, Congress intended to change the ordinary rules regarding classification of merchandise so as to make the condition upon withdrawal from the warehouse of merchandise manipulated under that section the determinant of its classification.

In *Garvey v. U.S.,* C.D. 1726 (1955), the following portion of the stoms Regulations, section 19.11(d), was held to be invalid:

> * * * but if the manipulation produces two or more parts of an article constituting an entirety, the parts shall not be classified separately if all the parts constituting the entirety are withdrawn for consumption under a single withdrawal.

The court reasoned that this was an amendment to 19 U.S.C. 1562 not intended by Congress. Customs published T.D. 54067, which deleted that portion of section 19.11(d), specifically noting that the deletion was to conform to the court decision.

The Customs Court was even more explicit in *Manca, Inc. v. U.S.*, Abs. 62666 (1959). Merchandise had been entered into a warehouse as completed microscopes by the importer; they were manipulated, dismantled and repacked and withdrawn as parts of microscopes (under two different classifications) on one warehouse withdrawal for consumption. In discussing C.D. 1726, the court said that one sentence of section 19.11(d) had been held invalid because "* * * in seeking to fix a classification as entireties on manipulated merchandise when it is withdrawn for consumption under a single withdrawal the said provision had the effect of imposing a limitation on the statute which was not applied by Congress. Under the stipulated facts the cited decision has equal force and effect in this case."

It must be noted, of course, that both *Garvey* and *Manca* were decided prior to promulgation of General Headnote 10(h), Tariff Schedules of the United States.

With respect to situations 1, 2, and 3, as set out in *Facts, supra* and assuming that sufficient parts to constitute the desired number of firearms are withdrawn from warehouse for consumption on a single withdrawal, they will be classifiable as firearms and not as parts of firearms. The operations described in situations 1, 2, and 3 are permissible in a manipulation warehouse.

Holding: Parts of firearms imported and entered for warehouse at the same or different times, manipulated by repacking and sorting, and subsequently withdrawn for consumption are classifiable as firearms assuming that the parts withdrawn constitute a complete but unassembled firearm or firearms.

(C.S.D. 83-103)

This ruling holds that the sole of an infants' vinyl jogger overlaps the upper by less than 1/16 inch, therefore the sole does not overlap the upper than at the toe or heel. Since the sole does not extend over and cover part of the upper, the footwear is classifiable under the provisions for other footwear in item 700.61, TSUS.

Date: June 22, 1983
File: CLA-2 CO:R:CV:G
069886 C

In a letter dated March 9, 1982, you inquired as to the dutiable atus of certain infants' footwear manufactured in Hong Kong. A mple was submitted for examination.

The sample is an infants' vinyl jogger. Under 30-power magnification, the blue trim clearly possesses a textile, flocked surface. ne unit molded sole of the sample overlaps the upper at the toe d heel.

With the advent of the new provisions replacing item 700.60, ariff Schedules of the United States (TSUS), the proper interpretion of the phrase "except footwear with soles which overlap the pper other than at the toe or heel" which appears in the inferior eading immediately proceeding items 700.61 through 700.71, SUS, has become a problem. In this instance, the specific issue inolved is whether the sole of the jogger overlaps the upper other han at the toe or heel.

The Summary of Trade and Tariff Information, Rubber Footear, USITC Publication 841, March 1981, at page 6, states in pernent part that "items 700.61–700.63 provide for footwear that is eld to the foot with the use of laces, buckles, or other fasteners nd that is of cement construction, and is primarily intended to over joggers. Items 700.64, 700.67, 700.69, and 700.71 provide for imilar footwear of other than cement construction, and primarily overs sneakers of tennis shoes."

Although the phrase "except footwear with soles which overlap he upper other than at the toe or heel" was obviously intended to revent rubber-soled footwear other than standard cement joggers rom being classified under items 700.61 through 700.63, TSUS, ustoms has classified a women's casual shoe having a imitation elt under item 700.61, TSUS. The rationale for this position, hich is currently being reconsidered, is that the imitation welt oes not overlap the shoe upper because it is not a part of the sole.

It is our position that the phrase "soles which overlap the upper ther than the toe or heel" should be interpreted in the light of ollowing criteria:

(1) The sole must extend over and cover part of the upper.

(2) In measuring overlap when the overlap is uniform, only one ut is to be made in the shoe, and that cut is to be made at the dge where the ball of the foot would normally rest. If the overlap s not uniform, the cut should be made at the point where the reatest amount of overlap occurs.

(3) A sole will be considered to overlap the upper if a vertical overlap of $1/16$ inch or more exists from where the upper and the outsole initially meet measured on a vertical plane. If this vertical overlap is less than $1/16$ inch, the sole is presumed not to overlap the upper.

The sole of the sample jogger overlaps the upper by less than $1/16$ inch. Following the criteria set forth above, it is our position that the sole does not overlap the upper other than at the toe or heel. Consequently, the subject footwear is classifiable under the provision for other footwear which is over 50 percent by weight of fibers and rubber or plastics with at least 10 percent by weight being rubber and plastics and having uppers of which not over 90 percent of the exterior surface area is rubber or plastics: Other: Footwear having soles (or midsoles, if any) of rubber or plastics which are affixed to the upper exclusively with an adhesive (any midsoles also being affixed exclusively to one another and to the outsole with an adhesive); valued not over $6.50 per pair in item 700.61, TSUS, and dutiable at the rate of 37.5 percent ad valorem.

(C.S.D. 83-104)

This ruling holds that a waiver of the requirement to export damaged merchandise to obtain drawback under 19 U.S.C 1313(c) cannot be granted, absent a showing that exportation is impossible or futile. Drawback may not be had under that section for merchandise not exported within five years of the date of importation

Date: June 24, 1983
File: DRA-1-09-CO:R:CD:D
215947 ≡ B

Issue: Whether an offset may be made against drawback paid under 19 U.S.C. 1313(c) for the salvage value of damaged merchandise which allegedly cannot be exported.

Facts: A Customs field office has asked for internal advice based on the following circumstances:

An American corporation, "S," contracted with the United States Department of the Interior (Interior), to have "S's" parent corporation in Japan manufacture new oil filled electrical transmission cable systems which would be tested and installed in three generating units of the third power plant of the Grand Coulee Dam. The cable was to be capable of transmitting 525,000 volts over a cable length of 20 kilometers. The cable, custom designed and manufactured in 60-ton, 1200-meter lengths, was imported between March and October 1976, and duty of $303,963 was paid.

"S" states that it, its parent corporation, and Interior were aware that the conformance of this cable to contract specifications could be observed only over an initial 5-year period during which any cable fault or failure, not due to Interior's negligence, would be viewed as product nonconformance because of failure to meet specifications of the original contract.

The cable was installed in 1977, but due to operational problems was not energized and made functional until April 1979. Thereafter, the three cable circuits were severely damaged by fire on July 20, 1981. At the time of the fire, the cable circuits had been in operation for 3,850 hours, or less than one-half year of continuous operation. According to "S," the normal useful life of this type cable is approximately 50 years.

An Interior investigation indicates the cable failed in that the copper wires in the fabric tape did not, according to Government investigators, make contact with its aluminum sheathing.

Consequently, "S" has agreed to remove all the old, damaged cable and to replace it with new cable conforming to Government specifications. The recovered cable is essentially worthless as cable, having a metal scrap value of approximately $100,000. The subcontractor removing the cable (scrap) has agreed to reduce the removal fee by the salvage value of the material.

The corporation believes that in view of the length, weight, and condition of the fire-destroyed cable, literal compliance with the exportation requirement of 19 U.S.C. 1313(c) is not possible. While asking for an extension of the 90-day period for completing and filing a claim for drawback, "S" asks that approval be given for disposition of the salvage through the subcontractor, as described above, and that duty on the fair salvage value of the damaged cable be deducted from the amount refunded as drawback.

Law and analysis: There can be no recovery in this case, inasmuch as more than five years have elapsed since importation of the cable. Section 1313(i) of Title 19, United States Code, provides:

> No drawback shall be allowed under the provisions of this section unless the completed article is exported within five years after importation of the imported merchandise.

This provision was enacted as section 313(h) of the Tariff Act of 1930, as amended, because many enterprising businessmen were purchasing goods long having been imported into this country, performing some manufacturing processes on those goods, then exporting them, obtaining as drawback more money than they paid to purchase them.

In addition to the need for a time limitation for obtaining drawback, the Treasury Department and Customs felt that regarding merchandise not conforming to sample or specification, American importers were at the mercy of foreign shippers. Unless the importer manufactured the rejected goods, drawback could not be had. To remedy these "principal evils" 19 U.S.C. 1313(c) was enacted and it was decreed that drawback in any case should not be allowed with respect to merchandise not exported within three years of importation. This period was later increased to five years by the Customs Simplification Act of 1953, Public Law 83-243.

For complete details of the basis for 19 U.S.C. 1313(c) and the requirement that drawback articles be exported within five years of their importation, see the legislative history of Public Law 71-369, the Tariff Act of 1930, 71st Cong., (H.R. 2667), Vol. 9, Part 2, p. 9749, whereat are found the comments by the then Commissioner of Customs, the Honorable E. W. Camp. The Congress not only adopted the Commissioner's legislative suggestions without comment, the 5-year period suggested by the Commissioner was reduced to three years.

A discussion of whether an extension of time to return the cable to our custody is unnecessary due to the foregoing. Nevertheless, we believe the question asked under *ISSUE, supra,* should be answered.

The statute, 19 U.S.C. 1313(c), provides that a refund of 99 percent of duties shall be refunded as drawback upon the exportation of merchandise not conforming to sample or specification or which is shipped without the consent of the consignee, provided the merchandise is returned to Customs for examination within 90 days of the date of its release from our custody, unless the Secretary's delegate (a Customs field office or Customs Service Headquarters) authorizes a longer period.

Failure to meet warranty guarantees as to length of service does not of itself constitute a failure to conform to specifications for purposes of the law. When the credit allowed in such cases is for all or substantially all of the purchase price, the mechandise may be considered as not conforming. However, when the credit allowed diminishes in porportion to the time which the imported merchandise has been used, the fact that an article does not serve the full warranted period does not of itself constitute a case of nonconformance (See T.D. 66-169-1 of July 19, 1966). Earlier, we had held that the standard for nonconformance was a refund of at least 9 percent of the purchase price (See T.D. 69-120-3 of March 4, 1969. Because the supplier/seller "S" has agreed to replace all the cable, we believe the standard of T.D. 66-169-1 has been met. The burden of showing failure to meet specification as set out in section 22.32(b) of the regulations has always been on the importer/claimant. See *Border Brokerage Company v. United States,* 53 Cust. Ct. 6, C.D. 2465 (1964).

In granting drawback claims pursuant to 19 U.S.C. 1313(c), there is no statutory authority which allows us to make a partial payment corresponding to the amount allowed by the manufacturer under a warranty. The payment by Customs is all the duty, less one percent, on the defective merchandise, or no payment at all. This presents the next problem regarding the alternatives of disposition of the salvaged merchandise. It has long been fundamental to drawback law that claimants must adhere to the requirements set forth in the statutes and applicable regulations. See *U.S.* v. *C. Hardesty Co.*, 36 CCPA 47, C.A.D. 396 (1949); *Spencer Kellogg & Sons* v. *U.S.*, 13 Ct. Cust. Appls. 612, T.D. 41459 (1926). The statute we are concerned with specifically authorizes payment of drawback only upon the exportation of the defective merchandise. To be sure, in some cases it would be literally impossible to meet the exportation requirement, or meeting it would be a useless step, as we decided in the case of the crashed airliner, the remains of which were worthless. To export worthless scrap would be a vain and wasteful step. This is not one of those cases, however. Were we faced with an "impossible" or "wasteful" situation, we would not demand exportation; but in this case these situations do not exist. The defective cable, albeit severely damaged, has been or will be recovered to the extent that it can be recovered. Moreover, the fact that the subcontractor wishes to retain the cable as part payment for removal indicates the cable can be transported. The cable has value. As an administrative agency we have no authority to waive a statutory requirement, and the statute under scrutiny offers no alternative to the requirement of exportation, when exportation is possible and a non-futile act. See particularly *Swan Tricot Mills Corporation* v. *U.S.*, 63 Cust. Ct., 530, C.D. 3948 (1969). Of course, because of section 1313(i), the matter of necessity of exportation in this case is moot.

Holding: Drawback under 19 U.S.C. 1313(c) may not be had for merchandise not exported within five years of importation as required by 19 U.S.C. 1313(i).

Because all defective merchandise must be exported in order to receive drawback under 19 U.S.C. 1313(c), there can be no allowance or deduction from the drawback payment for the salvage value of defective merchandise which is not exported. In cases where the defect causes total destruction of the merchandise, rendering it valueless, and exportation thereof either an impossible or futile step, the scrap is to be disposed of as directed by Customs (See Headquarters Letter 200059 of September 30, 1975—DRA-7-01-R:CD: JL).

Alternative: Were it not for 19 U.S.C. 1313(i) the salvaged cable could be placed in a foreign trade zone under zone restricted status. This placement constitutes an exportation for purposes of drawback. Once placed in a zone under that status, the cable must be exported, destroyed, or stored, and cannot be returned to the customs territory of the United States.

(C.S.D. 83-105)

This ruling holds that lottery advertisements and applications for lottery tickets printed in brochures imported into the United States for insertion or binding in foreign editions of a magazine printed in the United States for exportation and distribution abroad are prohibited under 19 U.S.C. 1305. (18 U.S.C. 1301 and 19 U.S.C. 1307(b)(2))

Date: June 27, 1983
File: RES-2-10 CO:R:E:E
722014 JB

This ruling concerns the importation of brochures containing advertising and ticket application forms for a foreign lottery for binding in the foreign edition of a magazine to be exported and distributed abroad.

Issue: Are lottery advertisements and applications for lottery tickets prohibited importation into the United States if the materials are to be bound to a publication and exported therewith for distribution outside the United States?

Facts: The brochure is a magazine supplement containing advertisement and ticket application forms for a lottery to be conducted in a foreign country. The brochure, after importation and as proposed, will be bound in the foreign edition of a national magazine at the premises of an affiliate and delivered to a distributor for packing, crating, and delivered to various airlines for distribution throughout Latin America.

Law and analysis: Title 19 U.S.C. 1305 (section 305 of the Tariff Act of 1930, as amended), provides in pertinent part that, "All persons are prohibited from importing into the United States from any foreign country * * * any lottery ticket, or any printed paper that may be used as a lottery ticket, or any advertisement of any lottery."

Title 18 U.S.C. 1301 also prohibits the importation of lottery tickets or any paper or instrument dependent on the event of a lottery or any advertisement thereof. This statute was amended in 1979 (Public Law 96-90) in part by the enactment of 19 U.S.C. 1307(b)(2) to eliminate the prohibitions in 18 U.S.C. 1301 for the transportation or mailing to an addressee within a foreign country of equipment, tickets, or material designed to be used within that country in a lottery which is authorized by the law of that country. However, the statute (19 U.S.C. 1305) which prohibits the importation into the United States of lottery tickets, or advertisements concerning any lottery, was not amended to permit importation and, consequently, remains in full force and effect. Modification of the law concerning the importation of lottery tickets and publications containing advertisements of any lottery is, therefore, a matter for consideration by the Congress.

Holding: The importation and release from Customs custody of
ochures containing lottery advertisements and applications for
ttery tickets for insertion or binding in foreign editions of a mag-
ine printed in the United States for exportation and distribution
road is prohibited under 19 U.S.C. 1305.

(C.S.D. 83-106)

is ruling holds that the dredging of gravel on the outer conti-
nental shelf off the north coast of Alaska to create an artifi-
cial island for the purpose of oil drilling; and the transporta-
tion of that gravel between the dredging location and the point
at which the artificial island is to be constructed must be by
coastwise qualified vessels. (46 U.S.C. 883, 46 U.S.C. 292)

Date: June 28, 1983
File: VES-3-15/VES-10-02
CO:R:CD:C 106152 PH

This ruling concerns the dredging of gravel on the outer conti-
ntal shelf off the north coast of Alaska to create an artificial
and for the purpose of oil drilling and the transportation of that
avel between the dredging location and the point at which the
ificial island is to be constructed.

ssues: 1. May a foreign-built barge be used to transport gravel
ween a location on the outer continental shelf where the gravel
dredged and another location on the outer continental shelf
ere the gravel is to be used to construct an artificial island for
purpose of oil drilling?

. May a foreign-built barge supply power to a United States-
lt dredge while the latter vessel engages in dredging in United
tes waters?

. May a United States-built, coastwise-qualified dredge be as-
bled in Canada from modules into which it was cut in the
ited States and be outfitted in Canada with United States-built
ipment and retain its entitlement to engage in the coastwise
le and in dredging in the United States?

acts: The inquirer represent a client who is considering bidding
n a contract involving the creation of an artificial island for
poses of oil drilling north of the Alaskan coast in the Beaufort
. The fill for the island will be dredged from a location outside
ted States territorial waters, approximately 10 miles from
re, and transported to another location outside United States
itorial waters, approximately 30 miles from shore. The inquirer
s whether the gravel fill may be transported between these lo-
ons by a foreign-built non-self-propelled barge, whether the
wer to this question would be affected if either of the locations
e within 3 miles of a fixed structure, when, if at all, the artifi-
island becomes United States territory, and what effect on the

island the carriage to it of dredged gravel by a foreign-built b
would have.

The inquirer's client is also considering buying a United St
built non-self-propelled suction dredge which holds a coastwise
ument. A foreign-built foreign-flag barge which can provide
electrical power necessary to operate the dredge is mechanicall
tached to it but capable of being detached in a few hours. W
operating as a unit, the two vessels operate around spuds loc
on the after end of the power-providing barge. The inquirer as
the foreign-built barge may supply power to the dredge while i
gages in dredging in United States waters.

The inquirer also requests a ruling as to whether a Un
States-built dredge documented for the coastwise trade but not
fitted in the United States could be cut into modules and shi
by land to a Canadian point where it would be reassembled
outfitted with United States-built equipment and still retai
coastwise trading privileges. The dredge would remain u
United States ownership and control.

Law and Analysis:

Issue 1: Title 46, United States Code, section 883, in perti
part, prohibits the transportation of merchandise between poin
the United States embraced within the coastwise laws in any v
other than a vessel built in and documented under the laws o
United States and owned by persons who are citizens of the U
States. A point in United States territorial waters is conside
point embraced within the coastwise laws of the United State
purposes of this provision. Customs has ruled that "merchan
for purposes of section 883, includes anything of commercial v
including dredged or otherwise obtained material that is to be
to create an island or jetty.

Section 4(a) of the Outer Continental Shelf Lands Act of 19
amended (43 U.S.C. 1333(a)) (OCSLA), provides, in pertinent
that the laws of the United States are extended to "* * * the
soil and seabed of the outer Continental Shelf and to all arti
islands, and all installations and other devices permanently or
porarily attached to the seabed, which may be erected therec
the purposes of exploring for, developing, or producing reso
therefrom * * * to the same extent as if the outer Contin
Shelf were an area of exclusive Federal jurisdiction located w
a State."

Under the foregoing provision, we have ruled that the coas
laws are extended to mobile rigs during the period they are se
to or submerged onto the seabed of the outer continental
(Treasury Decision 54281(1), copy enclosed). Subsequent rulin
plied the same principles to drilling platforms, artificial is
and similar structures.

Section 203 of the OCSLA Amendments of 1978 (92 Stat. 62
(1978 Amendments), amended section 4(a) of the OCSLA by s

tuting "* * * and all installations and other devices permanently or temporarily attached to the seabed * * *" for "* * * and fixed structures * * *." The purpose of this change was stated in the legislative history to be to make it clear "* * * that Federal law is to be applicable to all activities on all devices in contact with the seabed for exploration, development, and production." Thus, Federal law was intended "* * * to be applicable to activities on drilling ships, semisubmersible drilling rigs, and other watercraft, when they are connected to the seabed by drillstring, pipes, or other appurtenances, on the OCS for exploration, development, or production purposes." (House Report 95-590 on the 1978 Amendments, page 128, reproduced at 1978 U.S.C.C.A.N. 1450, 1534.)

On the basis of the 1978 Amendments, we have ruled that the coastwise laws extend to devices such as a buoy marker submerged onto or attached to the outer continental shelf for the purpose of resource exploration operations and to a well casing with attendant accessory systems when submerged into the seabed of the outer continental shelf. We modified this last ruling by holding that a point at which no buoy marker is submerged onto or attached to the shelf and no well has been sunk into the seabed is not a coastwise point even if there are buoys or wells in the general vicinity. We also have ruled that a location on the outer continental shelf where an artificial island is being constructed becomes a point in the United States, for purposes of the coastwise laws, when any part of the incipient artificial island is above the level of mean high water, defined as the average height of all high waters over a given location during a span of 18.6 years.

Accordingly, gravel fill could be transported by a non-coastwise-qualified barge between two points on the outer continental shelf so long as one of those points was not considered a coastwise point. If, at the point from which the gravel was transported, a dredge were attached to the seabed (i.e., operating around spuds as described in the facts) or a marker buoy were submerged onto or attached to the seabed for purposes of resource exploration operations, that point would be considered a coastwise point. We consider the dredging of gravel to build an artificial island for exploratory oil well drilling or the use of a marker buoy to mark the location at which the dredging is to take place or the artificial island is to be constructed or an oil well is to be drilled to be an activity for the purpose of resource exploration operations. If a marker buoy or any other device or installation were submerged onto or attached to the seabed for purposes of resource exploration operations at the point where the island is being constructed, that point would be considered a coastwise point. Furthermore, the location at which the artificial island was being constructed would be considered a coastwise point when any part of the incipient artificial island was above the level of mean high water. At that time, the incipient artificial island would become subject to the Customs and navigation laws, including the coastwise laws, the laws on entrances and clearances of vessels, and the provisions for dutiability of merchandise (Treasury Decision 54281(1)). Thus, if one or neither of the points between which the gravel is transported is a coastwise point, a non-coastwise-qualified barge may transport the gravel between the points. If both of the points are coastwise points the transportation between them by a non-coastwise-qualified vessel is prohibited.

The existence of a fixed structure on the outer continental shelf within 3 miles of one of the points between which the gravel is transported would not affect the above answer. We have ruled that a point at which no buoy marker is submerged onto or attached to the outer continental shelf and no well has been sunk into the seabed is not a coastwise point even if there are buoys or wells in the general vicinity. (See also, 43 U.S.C. 1332(2) in which it is declared to be the policy of the United States that the OCSLA "* * * shall be construed in such a manner that the character of the waters above the outer Continental Shelf as high seas and the right to navigation and fishing thereon shall not be affected." If United States territorial waters were extended 3 miles from fixed structures on the outer continental shelf as a result of the OCSLA, the character of the waters above the outer continental shelf as high seas would be affected by the OCSLA.)

We are aware of no effect that the carriage [illegible] dredged gravel to the artificial island by a foreign-built barge would have on the island, assuming that no laws are violated.

With regard to the transportation of gravel by a non-self-propelled barge, the inquirer should be aware that 46 U.S [illegible] prohibits the towing by a non-coastwise-qualified vessel [illegible] vessel other than a foreign-flag vessel or a vessel in distr[illegible]tween coastwise points. The discussion above as to what constitutes a coastwise point on the outer continental shelf is also applicable for purposes of this statute.

Issue 2: Title 46, United States Code, section 292, provides that, with a now obsolete exception,

> [a] Foreign-built dredge shall not, under penalty of forfeiture, engage in dredging in the United States * * *.

We have long held that dredging in United States territorial waters is dredging in the United States for purposes of this statute.

We have ruled that the use of a foreign-built barge to transport fuel from a United States port to a dredging site in United States waters where the fuel is used to operate generators on board the barge which provide power to a United States-built dredge does not violate the coastwise laws (Customs Service Decision 80-121, copy enclosed). However, in that ruling the question of the applicability of 46 U.S.C. 292 was not addressed. Furthermore, there was no evidence in that case to indicate that the power-supplying barge would be physically attached to the dredge as is true in this case

Accordingly, we do not consider Customs Service Decision 80-121 as precedent for the determination in this case of whether the use of the foreign-built barge to supply power to the United States-built dredge would violate 46 U.S.C. 292. We are, by this ruling, limiting Customs Service Decision 80-121 to its specific facts, insofar as 46 U.S.C. 292 is concerned.

The materials we have been able to obtain on the background and legislative history of 46 U.S.C. 292, as well as the statute on its face, clearly show that the purpose of section 292 was to limit dredging in the United States to United States-built dredges, that is, the statute was to protect United States-built dredges and the United States shipbuilding industry. In this case, the power-providing barge would be mechanically attached to the dredge. We conclude that in these circumstances the barge is an integral part of the dredging operation and, therefore, that the use of the barge with the dredge to engage in dredging in the United States would be prohibited. To hold otherwise could result in the diminution of the protection given by law to United States-built dredges so that only a part of a United States-built dredge would be afforded the protection of section 292.

Issue 3: The determination of whether a vessel was built in the United States for purposes of documentation, formerly within the jurisdiction of the Customs Service, was transferred in 1967 to the Coast Guard. The definition of a United States-built vessel for this purpose is provided in section 67.09-3 of the Coast Guard Regulations (46 CFR 67.09-3, as promulgated in 1982 pursuant to the Vessel Documentation Act of 1980 (46 U.S.C. 65, *et seq.*)). Section 67.09-3 provides that a vessel is considered built in the United States if:

> (a) All major components of its hull and superstructure are fabricated in the United States; and
>
> (b) The vessel is assembled entirely in the United States; and
>
> (c) At least fifty (50) percent of the cost of all machinery (including propulsion) and components which are not an integral part of the hull or superstructure relates to items procured in the United States.

Under section 67.09-5 of the Coast Guard Regulations, a vessel which does not meet these requirements is considered foreign-built.

When various of the functions under the navigation laws were transferred from Customs to the Coast Guard in 1967, responsibility for enforcing and administering 46 U.S.C. 883 was retained by Customs except for the first and second provisos thereof which it was agreed relate to functions transferred to the Coast Guard and to functions retained by Customs. Under the first proviso of section 883, a vessel which has acquired the right to engage in the coastwise trade and is later sold foreign in whole or in part or placed under foreign registry may not reacquire the right to engage in coastwise trade. Under the second proviso of section 883, no vessel of more than 500 gross tons which has acquired the right to engage in the coastwise trade and which has later been rebuilt shall have the right thereafter to engage in the coastwise trade unless the entire rebuilding, including the construction of any major components of the hull or superstructure of the vessel, is effected within the United States. It was agreed in 1967 that 46 U.S.C. 292 relates to functions transferred to the Coast Guard and to functions retained by Customs. Subsequently, it was agreed that Customs would assume responsibility for enforcing section 292.

We defer to the Coast Guard as to whether or not a vessel is considered built in the United States or foreign-built. We are forwarding a copy of the inquirer's letter and of this ruling to the Coast Guard, at the address given in the letter transmitting this ruling, for appropriate action. If the Coast Guard determines that the dredge would be considered a foreign-built dredge as a result of its reassembly and outfitting in Canada, its engagement in dredging in the United States or in the United States coastwise trade would be prohibited by 46 U.S.C. 292 and 883, respectively.

If it is decided to move the dredge to Alaska, either in the way described in the facts or by having the reassembly and outfitting of the dredge take place in Alaska if the Coast Guard determines that reassembly and outfitting in Canada would result in a foreign-built vessel, the inquirer should be aware that the coastwise laws (46 U.S.C. 883 and 316(a)) and the vessel repair statute (19 U.S.C. 1466) could have some effect on the movement. Section 883 (see our discussion in Issue 1) would prohibit the use of a non-coastwise-qualified vessel to perform any part of the transportation of the dredge, whether or not cut into modules, between a point in the lower continental United States and another in Alaska, even though part of that transportation was by land through Canada. It is possible that one of two exceptions to section 883 may be applicable to this transportation. They are: (1) the third proviso of section 883, under which merchandise may be transported between points in the continental United States, including Alaska, over through routes recognized by the Interstate Commerce Commission and for which routes rate tariffs have been filed with that Commission when the routes are in part over Canadian rail lines and their own or other connecting water facilities (this proviso is less effective since the deregulation effected pursuant to the Staggers Rail Act of 1980 (94 Stat. 1895, codified in title 49, United States Code) and a bill to revoke it is now before Congress); and (2) section 4.80b(a), Customs Regulations, which provides that merchandise is not transported coastwise if at an intermediate port or place other than a coastwise point (that is at a foreign port or place, or at a port or place in a territory or possession of the United States not subject to the coastwise laws), it is manufactured or processed into a new and different product, and the new and different product thereafter is transported to a coastwise point.

Under 46 U.S.C. 316(a) (discussed in Issue 1), it is unlawful for a non-coastwise-qualified vessel to tow any vessel other than a foreign-flag vessel or a vessel in distress between points embraced within the coastwise laws of the United States. Such towing is prohibited even if by way of a foreign port or place or if the non-coastwise-qualified vessel only performs part of the towing between United States coastwise points.

As the inquirer is informed in the letter transmitting this ruling, applicability of the vessel repair statute (19 U.S.C. 1466) to the inquirer's proposal is being separately addressed (in a memorandum to the Regional Commissioner of Customs, Pacific Region, file: VES-13-CO:R:CD:C 106171).

Holdings: 1. A foreign-built barge may be used to transport gravel between the point on the outer continental shelf where the gravel is dredged and another point on the outer continental shelf where the gravel is to be used to construct an artificial island for the purpose of oil drilling if *one* or *neither* of the points is a coastwise point. The point at which the gravel is dredged would be a coastwise point if a device or installation, such as a marker buoy attached to the seabed to mark the dredging location or the dredge operating around spuds resting on or attached to the seabed, were attached to or submerged onto the seabed for the purposes of exploration, development, or production of resources from the outer continental shelf. The point to which the gravel is transported would be a coastwise point if a device or installation, such as a marker buoy attached to the seabed to mark the location at which the artificial island was to be built, were attached to or submerged onto the seabed for the purposes of exploration, development, or production of resources from the outer continental shelf or any part of the incipient artificial island were above the level of mean high water. If *both* of the points on the outer continental shelf between which the gravel is transported are coastwise points, its transportation by a foreign-built barge would be prohibited by 46 U.S.C. 883.

2. A foreign-built barge which is mechanically attached to a United States-built dredge and which supplies power to the dredge while the latter vessel engages in dredging in the United States would be considered an integral part in the dredging operation and, therefore, would be in violation of 46 U.S.C. 292.

3. If the United States Coast Guard determines that the United States-built, coastwise-qualified dredge under consideration would be considered foreign-built as a result of its being cut into modules in the United States and reassembled and outfitted in Canada with United States-built equipment, it will be so considered for purposes of 46 U.S.C. 292 and 883, and could not engage in dredging in the United States or in the United States coastwise trade.

Effect on other rulings: Ruling letter VES-10-02-R:CD:C 104256 PH, October 3, 1979, published as Customs Service Decision 80-121, limited to its specific facts, insofar as 46 U.S.C. 292 is concerned.

(C.S.D. 83-107)

This ruling holds that the buying commission paid by a subsidiary corporation to its parent corporation is a *bona fide* buying commission under TAA and the commission should be excluded from the dutiable value of the merchandise

Date: June 28, 1983
File: CLA-2 CO:R:CV:VS
542912 LPD

To: Area Director of Customs, New York, New York 10048.
From: Director, Classification and Value Division.
Subject: Request for Internal Advice No. 46/82.

This is in response to your memorandum of March 18, 1982, received at Headquarters on April 1, 1982, initiating a request for Internal Advice regarding the dutiability of commissions paid by (Corporation name) in connection with handbags imported from the Orient.

Issue: Whether a commission paid by a subsidiary corporation to its parent corporation is a *bona fide* buying commission under the Trade Agreements Act of 1979 (TAA).

Facts: (Corporation name) (Importer) is a New York corporation which sells handbags, shoulder bags, tote bags and similar items to retailers in the United States. The company was established as a subsidiary of (Parent Corporation) (Buyer). In this regard there is a merger of interest and control because the same individual serves as president of both companies and is a major stockholder in Buyer.

It is alleged that Buyer acts as a buying agent for importer and other companies purchasing many types of merchandise from various manufacturers in the Orient. Buyer buys for the account of Importer in Hong Kong and the People's Republic of China and for the account of others in Hong Kong primarily, although a small number of items also may be purchased from mainland China for the account for others. For its services, Buyer receives a commission of up to 15 percent on orders for Importers and a commission of up to 5–6 percent on orders for other clients. The difference in commissions is attributed by Importer to the higher cost of doing business in the People's Republic of China.

In a typical transaction, orders are solicited from United States retailers by Importer and transmitted to Buyer who secures the merchandise from wholesalers and packs and ships it to Importer in the United States. According to documents submitted by Importer, the merchandise is invoiced from the manufacturer to Buyer in long Kong dollars. Buyer then re-invoices the merchandise to Imorter in United States dollars, setting forth the ex-factory price, s buying commission, freight and shipping charges, and the total ost of the merchandise.

Counsel for importer contends that inasmuch as the dealings beveen the two parties satisfy the legal requirements of a principalgent relationship, the commission paid by Importer to Buyer is a ona *fide* buying commission. On the other hand, the National nport Specialist is of the opinion that the relationship between he parties is that of a buyer and a reseller.

Law and analysis: Under the TAA, buying commissions are not ncludable as part of the price actually paid or payable for importd merchandise. However, the totality of the evidence relative to he transactions must demonstrate that the purported agent is a *ona fide* buying agent. In this regard, "* * * no single factor is eterminative * * * the existence of such a relationship must be scertained by examining all relevant factors and each case is governed by its own particular facts." (*J. C. Penney Purchasing Corpoation et al.* v. *United States,* 80 Cust. Ct. 84, C.D. 4741 (1978)).

To resolve the issue in this case two questions must be answered ffirmatively:

(1) As a matter of law, can a parent corporation act as an agent r its subsidiary corporation?

(2) Do the facts support a finding that a *bonda fide* buying gency relationship exists?

As to the first question, the comment to section 14M, *Restateent of the Law of Agency* (ALI, 1958) provides that, in the absence fraud or other illegal conduct:

> * * * a subsidiary may become an agent for the corporation which controls it or the corporation may become the agent of the subsidiary.

This conclusion is further supported by a case cited by counsel, *ew York Air Brake Company* v. *International Steam Pump Co.,* 64 isc. 347, 120 NYS 683 (1909), *aff'd* 136 App. Div. 931, 120 NYS 37, which held that a principal may act as the agent of its subsidry corporation.

More recently, the Customs Court has held that common control *r se* of the importer and commissionaire does not preclude a findg of a *bona fide* principal-buying agent relationship. (*Park venue Imports* v. *United States,* 62 Cust. Ct. 1035, ARD 255 (1969)).

Inasmuch as the above authorities demonstrate that there is no gal impediment to a parent's acting as an agent for its subsidiary, turn to the second question.

In *Penney, supra,* the court stated that the primary consideration determining whether a relationship is one of agency is the right the principal to control the agent's conduct with respect to the atters entrusted to him. In holding that the principal in that case ercised the requisite control over its agent to establish the existence of a *bona fide* buying agency relationship, the court cited the following factors as noteworthy:

> 1. The principal was active in selecting the merchandise and factories, while the agent was given no discretion in the purchase of the merchandise;
> 2. The agent provided market information, assisted in direct import buying activities, researched the market and gathered samples of merchandise in which the principal expressed an interest;
> 3. The principal visited the factories following the agent's research;
> 4. The merchandise was purchased by the agent on behalf of the principal and the factories were aware that the principal and not the agent was the purchaser of the merchandise;
> 5. The agent placed orders with the factories only after having been instructed to do so by the principal and looked to the principal for further instructions in those cases where the order could not be filled properly;
> 6. The principal could, if it had wished, bought directly from the factories and was not obligated to buy through the agent;
> 7. The agent was compensated for its services solely by the commission paid by the principal, it received no remuneration from the factories with which it dealt nor did it share its commissions with any of these manufacturers;
> 8. The agent did not buy for its own account, but for the principal's account and only upon instructions from the principal; and,
> 9. The agent maintained no separate inventory.

In *Park Avenue, supra,* where there was common control of the commissionaire and the manufacturer, the court noted that control of the agent by the principal is the *sine qua non* of the agency relationship. Quoting with approval from the appellant's brief, the court at 1042 stated:

> It might even be said as a general proposition that the closer the relationship or the greater the extent of the "common control" between an exporter and an importer, for example an exporter-employee and an importer-employer, the less likelihood that the exporter is either the seller or an agency of the seller or that the exporter's remuneration inures to the benefit of the seller or constitutes a part of the purchase price.

In this case, Importer has submitted a copy of its buying agency agreement with Buyer which states that Importer designates the articles to be purchased; Buyer visits manufacturers, works on samples as designated by Importer from time to time, submits samples to Importer for evaluation and securing orders, tries to negotiate the best possible prices and reports regularly on the market situation; upon instructions from Importer, Buyer places orders with manufacturers on behalf of Importer, inspects the merchandise and prepares the necessary documents and papers.

In addition, Importer has submitted affidavits from manufactur- rs stating that they make their sales to Importer through Buyer, ot at the manufacturers' direction, but because Importer wishes to eal through Buyer. Importer also has demonstrated that Buyer is ot related to any of the manufacturers and that it does not share ny of its commissions with the manufacturers. Buyer does not aintain an inventory of merchandise in Hong Kong for Importer.

Further, Importer has submitted copies of invoices from the for- ign manufacturers to Buyer setting forth the actual price of the erchandise and copies of Buyer's invoices to Importer setting rth the ex-factory price of the merchandise, freight and shipping harges, and its buying commission.

Holding: On the basis of the information submitted, we are of he opinion that there is sufficient evidence to support a finding hat Buyer acts as a *bona fide* buying agent for Importer and that he commission paid to Buyer for these services should be excluded rom the dutiable value of the merchandise.

(C.S.D. 83-108)

his ruling holds that duties on repairs by regular crew members using parts manufactured in the United States and purchased abroad are remissible under 19 U.S.C. 1466(d)(2), notwithstanding 19 CFR 4.14(c)(3)(ii)

Date: July 20, 1983
File: VES-13-18-CO:R:CD:C
106214 JM

This ruling concerns a petition for relief from the duty incurred nder 19 U.S.C. 1466 on the cost of foreign repairs to an American essel.

Issues: 1. Whether the repairs to the vessel in a foreign country ere necessitated by stress of weather or other casualty while the essel was in the regular course of her voyage, thus making duties hereon remissible pursuant to 19 U.S.C. 1466(d)(1).

2. Whether certain repairs to the vessel were accomplished by nited States residents, or regular members of the crew, using arts manufactured or produced in the United States, thus making uties thereon remissible pursuant to 19 U.S.C. 1466(d)(2).

Facts: The subject vessel arrived in the United States on Septem- er 30, 1979, at Panama City, Florida, from Port-of-Spain, Trinidad. essel Repair Entry No. 80-700004-1 was filed showing that re- airs were made to the vessel on seven occasions during 1978 and 979 at two ports in Brazil. The subject vessel, constructed of alu- inum and used for ocean bottom research, operated off the coast f Brazil from December 1978 to August 1979.

The vessel's owner filed an application for relief from duty on e cost of repairs, submitting 9 enclosures in support of its claim.

Each of the first seven enclosures related exclusively to one of the seven occasions on which the vessel was repaired. After the application for remission was partially denied, a petition for relief was filed which contained additional information in the first seven enclosures.

Enclosure 1 covers repairs to the starboard auxiliary engine in Fortaleza, Brazil. These repairs were made by regular members of the crew using parts which were manufactured in the United States and purchased by the vessel in Brazil.

Enclosure 2 covers repairs to the port auxiliary generator by a repair shop in Fortaleza. The petitioner states that the failure "occurred when fiberglass insulation which covers the wiring in the generator wore off, thus causing the wire to short out on the metal frame."

Enclosure 3 covers maintenance repairs and repairs to the vessel's hull and cycloidal propeller blade in Rio De Janeiro, Brazil. The petitioner offered evidence that damage to the propeller blade occurred when the blade contacted the anchor chain during heavy winds. The petitioner states that the exact cause of the hull cracks, which were repaired by a United States resident flown to Brazil for that purpose, is not known. While Enclosure 3 filed with the application stated the bent blade was replaced by ship's personnel, the first invoice (Enclosure 3, petition) contains item 2.20 SUBSTITUTION OF WOITH BLADE and item 2.29 GRINDING OF BLADE

Enclosure 4 covers repairs to the starboard main engine in Ri De Janeiro. The petitioner states that the damage was caused b defective valve springs which were later found by the manufacturer to be unsuitable for use in the engine.

Enclosure 5 covers repairs to the starboard auxiliary generato by a repair shop in Rio De Janeiro. Petitioner states that this fai ure was caused by the same problem with fiberglass insulation di cussed in Enclosure 2. In addition, Enclosure 5 covers hull damag repaired by a United States resident and allegedly incurred whe the vessel contacted the dock in Rio De Janeiro.

Enclosure 6 covers repairs to the two blowers on the starboa main engine by a repair shop in Rio De Janeiro. The petition states that "a bearing suddenly failed, thus causing two movi parts in the blower to collide."

Enclosure 7 covers repairs to the starboard auxiliary engine a the two main engines by a repair shop in Rio de Janeiro. The pe tioner states that the damage to the main engines "was due metal fatigue in the valve spring, a problem discussed in Enclos 4." The petitioner states that failure of the auxiliary engine res ed from the use of lubricating oil with an unacceptable sulph ash content which clogged the engine with carbon. The petitio gives no explanation concerning the cause of hull cracks also c ered by Enclosure 7 which was repaired by United States reside

The petitioner requests relief claiming that certain repairs necessitated by casualty were required for the safety and seaworthiness of the vessel and that certain repairs were effected by United States residents or regular members of the vessel's crew, using parts manufactured or produced in the United States.

Law and analysis: Title 19, United States Code, section 1466, provides in pertinent part for payment of an ad valorem duty of 50 percent of the cost of foreign repairs to a vessel documented under the laws of the United States to engage in the foreign or coastwise trade. Subsection 1466(d)(1) provides that the Secretary of the Treasury is authorized to remit or refund such duties if the owner or master of the vessel furnishes good and sufficient evidence that the vessel was compelled, by stress of weather or other casualty, to put into such foreign port and make repairs to secure the safety and seaworthiness of the vessel to enable her to reach her port of destination. Subsection 1466(d)(2) provides that the Secretary of the Treasury is authorized to remit or refund vessel repair duties if the master or owner furnishes good and sufficient evidence that the repair parts or materials were manufactured or produced in the United States, and the repairs were performed by United States residents or by members of the regular crew of the vessel.

In C.I.E. 1257/60, we held that the fact that repair material used in accomplishing repairs is of United States manufacture is irrelevant unless the work is performed by residents of the United States or by regular members of the crew of the vessel within the contemplation of section 3115(2), Revised Statutes (19 U.S.C. 1466(d)(2)). With the exception of repairs listed below in this paragraph, the repairs to the subject vessel were performed by foreign labor and are not remissible under section 1466(d)(2). The petitioner has furnished documents to show that members of the regular crew used parts which were manufactured in the United States and purchased in Brazil to repair the starboard auxiliary engine (Enclosure 1). In addition, United States residents repaired the hull cracks covered by Enclosures 3, 5 and 7. Accordingly, the duty on the cost of these repairs is remissible under (19 U.S.C. 1466(d)(2)).

We are aware of the fact that section 4.14(c)(3)(ii), Customs Regulations (19 CFR 4.14(c)(3)(ii)) states that parts and equipment manufactured in the United States and installed by United States residents or members of the regular crew must be purchased by the owner of the vessel in the United States to qualify for remission. We also note that 19 U.S.C. 1466(d)(2), the statutory basis for section 4.14(c)(3)(ii), does not require that such parts and equipment be purchased in the United States in order to qualify for remission. We are presently reviewing Part 4 of the Customs Regulations preparatory to a possible revision of that Part. (See General Notice published in the Federal Register on June 10, 1983 (48 FR 26831; Vol. 17, CUSTOMS BULLETIN, No. 25, page 8, June 22, 1983). We have noted and intend to correct this discrepancy in the proposed revision to Part 4.

The failure of the auxiliary generators (Enclosure 2 and 5) due to worn insulation, the failure of a bearing resulting in damage to two blowers (Enclosure 6) and the failure of the starboard auxiliary engine (Enclosure 7) are attributable to normal wear and tear rather than a casualty. In Customs Decision 79-32, we held that a breakdown in machinery may not be regarded as a casualty within the purview of the vessel repair statute in the absence of a showing that the breakdown or failure was caused by some extrinsic force. The petitioner has offered no evidence that the auxiliary generators and the blowers broke or failed due to some extrinsic force.

With respect to repairs to the cycloidal propeller blade, the petitioner has offered good and sufficient evidence that those repairs were necessitated by casualty. Accordingly, duty on the cost of repairs to the propeller (Enclosure 3) are remissible under 19 U.S.C. 1466(d)(1).

The petitioner indicates that the failure of the starboard main engine (Enclosure 4) and the two main engines (Enclosure 7) resulted from a latent defect in the valve springs rather than normal wear and tear. Generally, a latent defect can be said to be a deficiency in vessel equipment which is essential to the proper use of the equipment for the purpose for which it is to be used and which would not have been reasonably determined from an ordinary inspection. Headquarters has considered latent defects to be casualties in prior rulings and has granted relief when satisfied by the evidence that damage was conclusively caused by a latent defect. The petitioner's statement that the valve springs were defective, unsupported by documentary evidence, does not constitute conclusive evidence that damage to the main engines was caused by a latent defect.

Holding: 1. The petitioner has submitted good and sufficient evidence that members of the regular crew of the vessel used parts manufactured in the United States to repair the starboard auxiliary engine (Enclosure 1) and the United States residents repaired the hull cracks covered by Enclosures 3, 5 and 7. Accordingly, duty on the cost of those repairs is remitted pursuant to 19 U.S.C. 1466(d)(2).

2. The petitioner has submitted good and sufficient evidence that repairs to the vessel's cycloidal propeller were necessitated by stress of weather or other casualty while the vessel was in the regular course of her voyage. Accordingly, duty on the cost of repairs to the propeller is remitted.

While the file contains some evidence that hull repairs covered by Enclosure 5 were necessitated by casualty, these repairs were made by United States residents and remitted above under 19 U.S.C. 1466(d)(2). Accordingly, a determination concerning the cause of this hull damage is not required.

Insofar as the remaining repairs are concerned, the petitioner has not submitted good and sufficient evidence that these repairs were necessitated by stress of weather or other casualty while the vessel was in the regular course of her voyage. Accordingly, duty on the cost of these repairs is not remitted.

We note that certain charges, for example, transportation costs and drydocking charges, have been properly held nondutiable in the proposed liquidation of this entry.

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Treasury Decisions

A

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- Fish 83-121
- Tuna Fish 83-142

Tuna Fish—Tariff-Rate Quota 83-142

Customs Service Decisions

C.S.D. No.

A broker may not continue to file claims for drawback and receive monies for the bankrupt claimant unless the contract between the broker and the claimant is assumed by the trustee in bankruptcy, or the latter, with the approval of the bankruptcy court, enters into a new agreement with the broker concerning the filing of claims 83-10
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Articles brought to U.S. and admitted to FTZ not subject to Customs laws 83-48
Artificial flowers assembled into floral sprays in a Customs bonded warehouse is a manufacture prohibited by 19 U.S.C. 1562 83-80
Artificial island being built in outer continental shelf becomes a point in the U.S. for purposes of coastwise laws 83-94
Blister pack packages are incorrectly marked in accordance with 19 U.S.C. 1304 83-78
Bonded Carrier who receipts for merchandise is liable for proper transportation of merchandise 83-33
By authority invested in the Secretary of the Treasury (Public Law 81-891, 64 Stat. 1120), a waiver of 46 U.S.C. 883 is hereby granted for the movement of a floating drydock, between two U.S. ports, on a foreign-flag submersible barge, provide a United States-flag tug qualified for coast-wise trade is employed for the tow 83-8
Captain of Yacht being offered for sale who remains on the yacht, using its living quarters as an incidence to his duties of operation, does not render the yacht ineligible for same condition drawback under 19 U.S.C. 1313(j) 83-17
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  Vitamin E of United States origin is classified under item 412.60, TSUS 83-101
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Discrepancy Report and Declaration (CF 5931) may not be incorporated in Cargo Declaration 83-65
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Marking—Continued
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Property belonging to U.S. Government and Military Personnel ... 83-22
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Pursuant to 19 U.S.C. 2463(b)(1), merchandise destined for another foreign country upon exportation, but diverted to the United States without having passed through any other foreign country, and while traveling the same course taken in order to reach its ultimate U.S. port of entry, is considered to be "imported directly" for purposes of the Generalized System of Preferences ... 83-6
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Special Tonnage Tax: tonnage tax and light money assessed on American vessel should be denied for failure to provide valid reason ... 83-100
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Subassemblies used in aircraft classified under item 694.61–694.62, TSUS 83-44
Tape recordings produced in a foreign trade zone are free of quotas, duty and taxes 83-73
The loan interest expense incurred by a foreign assembler during start-up phase is included in the amount for profit and general expenses under computed value 83-4
This ruling holds that Customs Headquarters will not substitute its judgment for the fields refusal to grant same condition drawback to merchandise exported without examination unless it can be shown that a Customs officer acted arbitrarily 83-1
Tires to be used on flat bed trailers are not stevedoring equipment 83-42
Tooling is not an assist where tools paid for by the buyer are constructed by the manufacturer for use in producing merchandise for the buyer. The payment for the tools constitutes part of the price paid or payable for the merchandise. (sec. 402(b)(h)(1)(A), Tariff Act of 1930) 83-3
Transaction value may exist although the price paid or payable is not quantified at the time of exportation 83-56
Transaction value may exist even though final payment occurs after importation 83-55
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  Buying commission paid by a subsidiary corporation to its parent corporation is a bona fide buying commission 83-107
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  Hoverbarge imported into the United States does not meet the requirements of a vessel 83-83
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